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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. GUNDERSON].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 29, 1996.

I hereby designate the Honorable STEVE GUNDERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

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

O gracious God, from whom comes every good gift, we thank You today for the gifts of our past, those moments in our history when justice flowed down like waters and righteousness like an everflowing stream. We are grateful that women and men from the years of our birth have been models of character and stood for truth. May their witness in their day encourage our witness in our day and may their commitment to justice encourage each of us to that same commitment, an obligation and duty that inspires and makes whole, a responsibility that blesses and gives life. Amen.

THE JOURNAL

The SPEAKER pro tempore. 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.

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

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

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

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

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Washington [Mr. NETHERCUTT] come forward and lead the House in the Pledge of Allegiance.

Mr. NETHERCUTT 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.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1561), an act to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for U.S. foreign assistance programs for fiscal years 1996 and 1997, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. In the interest of time, the Chair will receive five 1-minute speeches from each side.

Further 1-minutes will be allowed at the conclusion of legislative business for the day.

ONE GREAT LEGISLATIVE DAY

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

Mr. GINGRICH. Mr. Speaker, let me say I just wanted to remind our Members, because we were so busy yesterday and it may not have been obvious, how much we got done in 1 day.

In 1 day this House sent to the President a landmark freedom-to-farm bill which revises 60 years and provides reform for a 60-year-old program.

We sent to the President a historic line-item veto bill which Presidents, beginning with Grant in the 1860's, requested from the Congress, and for the first time we passed it to send to the President.

We sent to the President an earnings limit increase for senior citizens so they could work without being punished by the Social Security Administration taking money away from them, something which every senior citizens' group has supported and which encourages people to stay active and be healthy.

We sent to the President real regulatory relief to help small businesses create jobs, helping the economy and reducing the amount of unnecessary redtape in this society.

We passed health care reforms to end job lock and make health care more affordable, the Health Coverage Affordability Act of 1996, which dramatically increases the ability to change jobs without worrying about preconditions,

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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guaranteeing portability, which prevents health care fraud and abuse and establishes a senior citizen incentive to turn in fraud, which creates administrative simplification to save on red-tape, which passes medical liability reform to reduce the number of lawsuits and increase the amount of care that is focused on health care rather than legal behavior, which has tax-related concerns that guarantee deductibility for long-term care and which establishes the deductibility of medical savings accounts.

All of those were done in 1 legislative day.

I think this Congress can be proud of its commitment to reform and the serious, practical, commonsense work we are engaged in to give the American people a better government at lower cost with better services.

THE CONTRACT WITH AMERICA IS ON TRACK

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

Mr. BALLENGER. Mr. Speaker, my colleagues may not have seen this, but today's Washington Post features a neat little chart showing the progress in the Contract With America.

Congressional compliance—signed into law; unfunded mandates—signed into law; Defense spending increases—signed into law; and on and on.

Mr. Speaker, just this week, Congress gave the President the line-item veto, we lifted the regulatory burden on small business, we started reversing the Clinton Social Security tax on the elderly, and we passed commonsense health care reform.

We have a solid record of achievement in the 104th Congress. Our Contract With America is on track—just like it says here in the Post—and, in addition, we have changed the terms of debate here in Washington.

It is no longer about should we do the right thing, it is about how we do the right thing. I am honored to be in the party that stands for America's values, not Washington's values.

THE PRIDE OF KENTUCKY

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

Mr. WARD. Mr. Speaker, I stand before this body today to share my pride in Kentucky basketball. This past Saturday night, Sullivan College in my hometown of Louisville, won the National Junior College Athletic Association national championship basketball tournament in Hutchinson, KS—the first Kentucky team to win this championship since 1969. Sullivan defeated Allegheny College of Maryland by a score of 104 to 98 in overtime. All of us in Louisville are very proud of this team and their head coach, Gary Shourds, and president, A.R. Sullivan.

This has been a phenomenal year for Kentucky basketball. You know we are very proud of our basketball in Kentucky with the University of Louisville and the University of Kentucky both in the NCAA Division I tournament. This weekend UK, my alma mater, goes for the NCAA national championship in New Jersey. In addition, Georgetown College of Georgetown, finished second in the NAIA national tournament and Northern Kentucky University finished second in the NCAA Division II national championship.

I also share with pride that Coach Gary Shourds of Sullivan College has been selected as the National Junior College Coach of the Year and will receive his championship award at the National Basketball Coach's Association luncheon this Sunday in New York City.

So I raise this declaration to all present that Kentucky is still the grandest State for basketball in all of these United States.

MISMANAGEMENT OF USDA FOOD AND CONSUMER SERVICE

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

Mr. NETHERCUTT. Mr. Speaker, last Wednesday, in the Agriculture appropriations hearing, I examined what can only be described as gross mismanagement in the agency that oversees our Nation's food programs. Without clear explanation, the USDA's Food and Consumer Service could not specifically account for \$13.5 billion, one-third of their budget in 1994. We do know that the agency spent \$500,000 on gourmet chefs to design food for kids and \$400,000 for the Disney Corp. to promote "Lion King" commercials in the name of child nutrition.

While Republicans have been attacked for trying to make certain that Federal agencies use taxpayer money efficiently and effectively, the Food and Consumer Service has in fact had so much money they don't know where it went. The inspector general made such a finding. Every American should be outraged at this administration's mismanagement of these funds for children, and we better look at other agencies, too, to be certain about spending in efficiency in this administration.

WAKE UP TO JAPANESE TRADE DEFICIT

(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, 10 years ago the 10 biggest banks in the world were American banks. Today the 10 biggest banks in the world are Japanese banks, all 10. Even after the merger of America's 2 biggest banks, they did not even make the top 10.

Wake up, Congress. Japanese banks did not get fat on the yen. Japanese

banks got fat pigging out on American dollars. The trade deficit just came out last month. It skyrocketed 48 percent, a 48-percent increase in 1 month, over \$10.3 billion.

Japan takes, America gives; Japan protects, America counsels; Japan regulates, America negotiates.

Let us tell it like it is. If America's trade program was so good, why does Japan not try it?

We are getting our clock cleaned, and we are not even talking about it. Think about that.

INTRODUCTION OF CONGRESSIONAL CAMPAIGN FINANCE REFORM ACT

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

Mr. BASS. Mr. Speaker, in the 104th Congress the new Republican majority has made great strides in reforming Congress and restoring America's faith in the honesty and integrity of this institution. Indeed, our accomplishments are a shining example of promises made and promises kept.

Although we can be proud of these changes, one more vital reform remains, and that is campaign finance reform.

Today I am introducing the Congressional Campaign Finance Reform Act to restore credibility and public confidence in elections. It includes provisions that bring elections back home by requiring a majority of campaign funds to be raised from in State sources, it emphasizes grassroots fundraising by reducing PAC contributions to \$1,000 per election, and it controls the exorbitant costs of campaigns by allowing States to enact voluntary campaign spending limits as we have done in New Hampshire and in other States.

For those of my colleagues who want to complete the reform of Congress that we started so well a year and-a-half ago, let us move forward, and I urge everyone to cosponsor my legislation or any of the other bills. Let us get a vote after the April recess.

□ 1015

AMERICAN LIBERATION FROM FOREIGN OIL DEPENDENCE

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

Mr. PETE GEREN of Texas. Mr. Speaker, I rise today to join many of my colleagues in a month-long effort to bring attention to our growing dependence on foreign oil. On the fifth anniversary of the end of the Persian Gulf war and the liberation of Kuwait, it is the logical time to reflect on our domestic oil production, which is at a 40-year low.

Today there are 85,000 fewer people working in the oil and gas industry in

the United States than there were at the beginning of the gulf war. Everything that the United States had at stake at the beginning of the gulf war is still on the line, even more so. Americans consume 17 million barrels of oil a day, and today over 50 percent of that consumption is imported from foreign sources.

Last year, a Department of Commerce study revealed that the Nation's reliance on foreign oil was a threat to our national security, because it increases our vulnerability to oil supply interruptions.

Mr. Speaker, foreign oil dependency can be alleviated. One way would be to allow our Nation's industry more access to promising areas offshore. Our Government also must lift unnecessary and burdensome regulations that provide no environmental benefits but cost American jobs and drive our oil and gas industry overseas.

Congress must take the lead in developing a Federal energy policy that encourages rather than punishes domestic oil and gas production. As the world's leader, America must learn from history's mistakes rather than repeat them. This is a job's issue, it is a national security issue, and time is not on our side.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GUNDERSON). The Chair will entertain three more 1-minutes on each side.

URGING SUPPORT OF THE ESSENTIAL AIR SERVICE, A PROGRAM IMPORTANT TO RURAL AMERICA

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

Mr. BARRETT of Nebraska. Mr. Speaker, as we begin the fiscal year 1997 appropriations process, I'd like to call your attention to a small but important program to rural America—the Essential Air Service. EAS was created in the early 1980's to provide assistance to small communities, and to maintain an integrated, national air service network. Air service is vital to rural communities, it is their link to the rest of the world.

Over the past several years, funding for EAS has steadily decreased, falling victim to an urban-dominated Congress, and budget cuts.

Therefore, I've introduced an alternative to the EAS, the Small Community Air Service Act. My bill, H.R. 2881 would allow States to charge a small fee on passenger tickets to fund an EAS-type program. It would be designed by the State, and for the State. I believe my bill is a viable alternative to the current program.

I ask my colleagues to seriously consider H.R. 2881. And as we continue the appropriations process I ask for your support of EAS.

THE UNITED STATES MUST MINIMIZE ITS DEPENDENCE ON FOREIGN OIL

(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, 5 years after the Persian Gulf war, the United States still imports 9 million barrels of oil. In fact, our Nation is more dependent on foreign oil than ever before. More than 50 percent of our oil is imported, and about 20 percent comes from the Persian Gulf. While we may never completely eliminate our dependence on foreign oil, we must minimize our reliance on foreign sources from the volatile Middle East. We should look more toward our neighbors and trading partners in the Western Hemisphere, like Venezuela, which has made significant investment in the United States and recently opened its oil industry to investment by U.S. companies.

Mr. Speaker, I encourage my colleagues to move toward a policy that encourages domestic oil and gas exploration and production, to ensure a vibrant and healthy economy.

AMERICA MUST WORK TOWARD ENERGY INDEPENDENCE

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

Mr. WATTS of Oklahoma. Mr. Speaker, on this historic fifth anniversary of the Persian Gulf war, the lessons seem clear: America must work toward energy independence. But, this Nation seems to be ignoring the lessons of the past and heading in exactly the wrong direction—toward over dependence on foreign energy sources.

As leaders, we must make every effort to help America's oil and gas industry thrive. By helping the American oil and gas industry thrive, we will create new jobs, more revenues and increased national security. But we must unleash this strategic industry from its regulatory noose. Currently, instead of cutting down on bureaucratic regulations, the administration and some in Congress have proposed more than \$14 billion in new industry regulations that would take effect over the next 5 years.

My colleagues on the House Resources Committee seem to understand these costs. Today, they will markup a bill, the Oil and Gas Royalty Fairness and Implication Act, that makes sense. It cuts through the bureaucracy and provides certainty, simplicity, fairness and efficiency in royalty collection. This is something that industry and the administration can agree on. I hope we can too.

It is time to free America's oil and gas industry from over regulations so that this Nation can be free from its foreign oil dependency.

IT IS TIME SOME REPUBLICANS IN THIS BODY GOT RELIGION AND SUPPORTED EDUCATION

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

Mr. JACKSON of Illinois. Mr. Speaker, I represent the Second Congressional District of Illinois, where education is considered sacred. This Nation should have no higher priority than to educate its populace. Senator DOLE and a majority of the Republicans in the Senate voted 84 to 16 on Tuesday to restore funding for key education and job training programs. Now that Senator DOLE is candidate DOLE, he has religion. Yet, in this body, there is still a majority in the majority who are determined to cut funding for basic education and math skills, cut funding for safe and drug-free schools, cut funding for vocational education, and that is wrong.

Mr. Speaker, education helps preserve family values. Education is the cornerstone of our democracy. It is good for business. It is good for meaningful, well-paying, and socially useful jobs. Education aids economic growth and keeps us competitive in the global marketplace, adds quality to a person's life, and enhances one's self-image. A mind, Mr. Speaker, is a terrible thing to waste. It is time some Republicans in this body got religion and supported the full funding of education.

PASO ROBLES MAKES TOP 50 LIST OF SMALL TOWNS TO LIVE IN

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

Mrs. SEASTRAND. Mr. Speaker, I rise today to pay tribute to Paso Robles, a beautiful small town on the central coast of California.

Recently in its April issue, Money magazine described Paso Robles as one of "America's 50 Hottest Little Boomtowns."

Paso Robles, a computer-age company town with tremendous growth potential—just a few miles north of California's commercial space port is considered one of the 50 best towns to live and work because of its growing promise of jobs in its electronics manufacturing and winery industry.

The Money magazine article ranked Paso Robles 43 out of 50 best places to live based on the city's projected population growth of 12 percent, its attractive median income and typical home cost.

I proudly salute Paso Robles and its citizens and encourage them to take pride in the fact that it is truly one of America's best kept secrets.

RESIST THE GOP'S CUTS IN EDUCATION: APPROVE A BUDGET THAT BRINGS FINANCIAL STABILITY TO EDUCATING TOMORROW'S LEADERS

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

Mr. STUPAK. Mr. Speaker, in upper New York State, far from Washington's budget battles, an elementary school teacher named Theresa McAnaney has learned she may be laid off, because her school district does not know how much money it will receive from the Federal Government.

The plight of Ms. McAnaney and 15 colleagues facing layoffs is profiled in a recent New York Times story, but their case is not unique.

In my own State of Michigan, pink slip notices must be given to teachers by April 8, less than 2 weeks from today.

Across the Nation, 40,000 people face layoffs, because school districts cannot plan their budgets.

The New York Times article goes on to say that, faced with uncertainty, school districts are also scrapping long-range plans.

Hurt most are programs in poor and urban school districts, dependent on Federal aid for remedial instruction in reading and math, drug-free School Zone, Head Start, and Title I.

Surveys from the Washington Post and the Wall Street Journal reveal that most people consider education their top issue, and favor the same level or increased spending for education.

Mr. Speaker, we must resist the GOP's cuts in education and approve a budget that brings financial stability to educating tomorrow's leaders.

URGING TREASURY DEPARTMENT TO UPDATE REGULATIONS TO TAKE FULL ADVANTAGE OF DOMESTIC OIL RESERVES

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

Mr. MCCRERY. Mr. Speaker, no single component of our national economy is more important than energy. Yet, today we find ourselves more dependent on foreign sources of petroleum than at any time since 1977. Right now, imported oil accounts for over 50 percent of domestic consumption. By the year 2015, the Department of Energy forecasts that America will only supply one-third of its domestic needs. That means our Nation will rely heavily on other countries to fuel our cars, heat our homes, and drive our economy.

I am concerned that we are not being sufficiently aggressive in our efforts to reverse this trend. In the United States, we have vast proven reserves in existing fields that can be accessed, but only with advanced oil recovery tech-

nologies. Since 1990, we have recognized that to reduce our dependence on foreign energy sources, certain new recovery technologies should be encouraged through the enhanced oil recovery credit. Unfortunately, the eligible technologies identified do not reflect the latest developments in this field.

To take full advantage of our domestic oil reserves, I urge the Treasury Department to use the specific authority Congress provided, to update the regulations to include new recovery technologies. Doing so will reopen access to much needed domestic oil and provide new skilled job opportunities in the domestic economy.

LET US REWARD WORK AND INCREASE THE MINIMUM WAGE

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

Ms. DELAURO. Mr. Speaker, today's New York Times reports that 1995 was a very good year for the heads of corporations. According to the report, their median salary and cash bonuses rose to more than \$2 million. That is \$2 million a year in compensation.

Since 1990, corporate salaries have been rising at a fast clip of 9 percent per year, while wages and salaries of the Nation's workers are dead in the water, going nowhere. Hard-working families in America are scrambling to figure out how to find the money to pay their bills. Yesterday we had an opportunity to do something for those families, and instead, this House turned its back. At a time when corporate CEO's average \$2 million a year, when Members of this Congress earn over \$130,000 a year, House Republicans yesterday killed an attempt to raise the minimum wage by 90 cents, just 90 cents. It is shameful.

This Monday is the anniversary of the last increase in the minimum wage, which is now at a 40-year low. America needs a raise. Let us reward work and increase the minimum wage.

MAKING IN ORDER CONSIDERATION OF HOUSE JOINT RESOLUTION 170, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 170) making further continuing appropriations for the fiscal year 1996, and for other purposes when called up; and that it be in order at any time to consider the joint resolution in the House; that the joint resolution be debatable for not to exceed 1 hour, to be equally divided and controlled by myself and the gentleman from Wisconsin [Mr. OBEY]; that all points of order against the joint resolution and against its consideration be waived; and that the previous question

be considered as ordered on the joint resolution to final passage without intervening motion, except one motion to recommit, with or without instructions.

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

Mr. OBEY. Reserving the right to object, Mr. Speaker, let me simply say that I do not intend to object. The gentleman has consulted on this side of the aisle, and I think that the process which he has in mind for bringing up this resolution is the correct one. We do not necessarily like the result that flows from it, but I think it is in order to facilitate its consideration at a later point today, so I have no objection.

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

Mr. OBEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, so I can clarify, can the gentleman tell us when he plans to take up the legislation? I do not plan to object.

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

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I would tell the gentleman, this continuing resolution will continue the existing temporary funding laws in effect until April 24, which avoid any government shutdown and while it sounds like a long time, is really only 6 legislative days from today.

Mr. VOLKMER. Does the gentleman plan to take it up later today, this afternoon, Mr. Speaker?

Mr. LIVINGSTON. I am sorry, this CR will be brought up later today, after the product liability conference report.

Mr. VOLKMER. I thank the gentleman.

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

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

There was no objection.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 956, COMMONSENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 394 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 394

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes. All points of order against the conference report and against its consideration are waived.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

□ 1030

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. LINDER asked and was given permission to include extraneous materials.)

Mr. LINDER. Mr. Speaker, House Resolution 394 provides for the consideration of the conference report for H.R. 956, the Commonsense Product Liability Legal Reform Act of 1996, and waives all points of order against its consideration. The House rules allow for 1 hour of general debate to be equally divided between the chairman and ranking minority member of the Judiciary Committee.

Mr. Speaker, the struggle to craft bipartisan product liability reforms has been over two decades in the making, and we have before us legislation that will save segments of our economy and create new jobs across America.

Mr. Speaker, I do not wish to unleash partisan charges that the President is playing politics with this important reform measure. The assessment that the President is playing politics has already been sufficiently made by members of the President's own party. I want to begin by recounting just a few of these appraisals of the President's motives.

Senator JOSEPH LIEBERMAN, a Democrat, has stated that the "President is dead wrong about this bill" and Senator JAY ROCKEFELLER, a Democrat, stated that the President has "his eye on the electoral college." Senator ROCKEFELLER continued by stating:

Special interests and raw political considerations in the White House have overridden sound policy judgment. I am extremely disappointed the President has taken such a shortsighted political view of a serious bipartisan effort that would restore common sense to the American legal system.

Mr. Speaker, in response to Senator ROCKEFELLER's charge that special interests and raw political considerations in the White House has overridden sound policy judgment—I must say that this is nothing new.

As has been the case with countless pieces of historic legislation that have passed both the House and Senate, the President has disavowed good public policy and embraced his special interest friends. In this case, we have reached bipartisan agreement on legal reform, and it appears that the only obstacles to these moderate reforms are the trial lawyers and an antireform, status quo President.

The President is—and has been—the one roadblock to the reforms that the public wants. In his shortsighted, political view of the Nation, the President plans to add a veto of legal reform to his two vetoes of welfare reform and the historic balanced budget bill.

The Commonsense Legal Reform Act will end many frivolous lawsuits which

have imposed significant costs on small businesses and killed American jobs. These indiscriminate lawsuits have caused the withdrawal of products from the market, including medical devices and medication available in most of the world, sadly resulting in preventable deaths.

The President has professed that the bill would reduce product safety, which it will not. His real anxiety about this reform bill is that it would reduce the fees of the trial lawyers who now receive from 50 to 70 percent of every dollar spent on product liability litigation. The trial lawyers have bragged about Bill Clinton's commitment to terminate any legislative effort to end frivolous lawsuits. The Arkansas trial lawyer president boasted about the fact that Arkansas has had no tort reform and stated that—and I quote—"this success would not have occurred without Bill Clinton. I can never remember an occasion when he failed to do the right thing where we trial lawyers were concerned."

Mr. Speaker, the future of the country is more important than some pay-off to the trial lawyers. Our competitiveness overseas is being undermined. Rather than deal with the product liability litigation problem, American firms have left markets to foreign competitors and decided not to develop new products, technologies, and medical breakthroughs. These losses are impossible to calculate, and it is clear to everyone except the President that thousands of American small businesses are just one lawsuit away from bankruptcy. The provisions included in this bill were greatly pared down from the much-needed and broader changes we passed in the Contract With America. The bill does not include everything that I would have wanted, but this Congress understands that sometimes you have to compromise, and this is a start down the right road.

This is about restoring fairness to the American legal system and this bill should not be a political issue. These are modest, but critically important, reforms that will benefit the American people. I urge my colleagues to support the rule and the reform legislation, and I urge the President to reconsider his unfortunate veto threat of commonsense legal reforms.

I want to close by quoting the Washington Post editorial page:

The President's announcement over the weekend that he will veto product liability legislation has surprised and disappointed even senior Democrats in the Senate—and well it should. The decision is a terrible one. But the lawyers want the sky to be the limit. The President's decision to capitulate to their pressure is transparent, shortsighted, and wrong. The compromise should be accepted by both Houses and signed by the President.

Mr. Speaker, the Senate did their job by passing the bill by a 59-to-40 margin, and I expect the House to follow suit by passing this bill with equally overwhelming support. I urge the President to forgo politics and do his job.

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

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

Mr. Speaker, I rise in opposition to this conference report and to the rule providing for its consideration. This conference agreement caps punitive damage awards to consumers who have been harmed because of the products they have purchased and used. This conference agreement removes any incentive that might currently exist which makes corporations and manufacturers keep those harmful products off the market.

In the name of competitiveness, the conference has proposed a new legal framework that truly lives up to the old adage, caveat emptor. Mr. Speaker, I cannot support any legislation which places profit ahead of responsibility, and which puts the bottom line ahead of public safety. This agreement, all in the name of reform for the sake of reform, takes away expected and necessary protections for workers and consumers. The American people deserve better.

I urge my colleagues to defeat this conference report. I do not understand why this House should be a party to creating a legal climate that would hurt consumers who have already been injured by the negligence of product manufacturers.

Mr. Speaker, the proponents of this legislation have used little hard evidence in their zeal to push for passage of this legislation. But, I submit there are real people whose real cases demonstrate precisely how the current system has improved public safety and has promoted responsible corporate behavior.

For example, what would the proponents of this legislation say to the parents of the 4-year-old girl whose pajama top caught fire and who suffered second- and third-degree burns all over her upper body? Would the proponents say that there should be a cap on punitive damages when the manufacturer of the child's pajamas was well aware of the flammability of those garments? So well, in fact, that one company official admitted that the company was always sitting on a powder keg, even though treating the pajamas with flame-retardant chemicals was economically feasible?

Well, Mr. Speaker, the scars on that little girl—both physical and emotional—are permanent and she bears those scars only because of the negligence of that company. The \$1 million punitive damage award in that case was small recompense for that little girl and her family. And yet, this conference agreement would deny that little girl such an award. And, Mr. Speaker, it was that award that served as the prime motivator for removing those garments from the market.

Or, Mr. Speaker, let's talk about defects in cribs. Two years ago, a 5-month-old baby boy died from injuries suffered from a defective crib. He died

in spite of the fact that the crib's manufacturer had ignored warnings 10 years before by the U.S. Product Safety Commission of just such defects. Or, let's talk about exploding Pintos, or asbestos insulation in office buildings and in schools, or tractors that suddenly self-shift gears. There have been court cases involving all these products that have resulted in punitive damage awards to those who have been injured, maimed, or killed by them. Those punitive awards have benefited us all, Mr. Speaker, because they have forced companies to do the right thing—to fix, to recall, or to discontinue the manufacture and sale of products that injure, maim, or kill people.

And so, Mr. Speaker, we too have a chance to do the right thing today for American consumers. I encourage my colleagues to take a stand and to reject this conference agreement.

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

Mr. LINDER. Mr. Speaker, at this time I have no requests for time, and I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

The SPEAKER pro tempore (Mr. GUNDERSON). The gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 6 minutes.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Texas and the gentleman from Georgia for yielding me this time.

I just want to say to Members, I certainly hope they help us defeat the previous question, because Members of this body have voted twice to do something that is now no longer in this piece of legislation, and I think Members are going to be really surprised when they find out that the Senate removed this.

What is this? Well, this is a very, very key component that, it is kind of like a Federal long arm statute, but it says that for any foreign manufacturer that wants to partake of the benefits of this law, the benefits of this law, they must subject themselves to discovery and to the jurisdiction of the U.S. courts.

Now, I think with the benefits go the responsibilities, and we are giving them a great benefit when we pass this. When we pass this bill, what we are doing is limiting their liability, allowing them to get away with all sorts of things. I think it goes way too far. But I just say to this body, if you are going to do that, and you are not going to have this provision dealing with foreign manufacturers, I think that we ought to strike the name of this. How can you possibly call it common sense? Because once again, you will be putting our manufacturers under one standard, but foreign manufacturers under an entirely different standard. They can limit their liability, they can do very

well, but guess what? They do not have to be under the jurisdiction of U.S. courts and they do not have to be under the discovery proposals.

Twice this House voted by 256 votes for this proposal. The gentleman from Michigan, the esteemed ranking member, Mr. CONYERS, has pursued this and pursued this, and convinced this body of this issue. Unfortunately, in the other body, it seems that foreign manufacturers have a lot more gravitas and something happened. It disappeared.

So if we can defeat the previous question, this side will be moving to try and put in that very key component so that this really is common sense, and what our manufacturers get, foreign manufacturers are going to get too, and they are going to have a level playing field. I just think the American people are going to be very distressed to find out one more time foreign manufacturers are given the wing-wing, or a better deal under this.

Now, I also have great trouble with the bill for one other reason. When we talk family values, we ought to mean family values, and we talk family values all the time. One of the things that this legislation does is it values a corporate paycheck way more than it does a person's reproductive capacity. If someone loses their reproductive capacity, that is considered noneconomic damage. Now, that may be noneconomic to some accountant, but to anybody with a heart and a soul, I think the loss of your reproductive organs is way, way more valuable than any economic damages you could ever have. What this bill does is that it puts punitive caps on that, and I just think that that is really wrong.

When you look at the history of women's experience, whether it is with silicon breast implants, the Dalkon shield, with all sorts of things such as DES, and so forth, that have been marketed, and then turned out to harm women's reproductive systems, now we really are capping what kind of value that has. I think people would be shocked to know that a Congress that speaks family values is going along with this. So I urge a no vote on the previous question.

Mr. HYDE. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Illinois [Mr. HYDE.]

Mr. HYDE. Mr. Speaker, with great respect I would like to advise the gentlewoman, there is no limitation on economic damages or noneconomic damages. It is punitive damages only that there is a limitation. That provision was taken out of the bill and there just is no limitation on economic or noneconomic damages.

Mrs. SCHROEDER. Well, Mr. Speaker, reclaiming my time, the gentleman, my esteemed chairman, is correct as far as he goes, but let us talk about joint and several and let us talk about punitive damages, and the punitive damages caps.

Mr. HYDE. Mr. Speaker, if the gentlewoman will continue to yield, I thought you were talking about economic and noneconomic. The punitive damages, yes, there are limitations.

Mrs. SCHROEDER. That is right. And when you look at the economic damages, they always weigh in a whole lot more. The noneconomic damages, and without the punitive add-on to it, and the joint and several, I really think women or men, for that matter, I think we are going to learn more and more about men losing their reproductive capacity. We do not know why, but we are starting to see more articles about this new disturbing trend.

Mr. VOLKMER. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I am curious. Maybe the gentlewoman can tell me what the economic loss is for the ability to have a child. What is the economic loss of the inability to have a child? I do not think you can put a dollar figure as an economic loss on that. So if there is no economic loss and no punitive damages, what damages are they then?

Mrs. SCHROEDER. Mr. Speaker, reclaiming my time, as the gentleman knows, this law would supersede the traditional common law, and it would eliminate joint and several liability for noneconomic damages such as pain and suffering. So obviously, the loss of reproductive organs is considered a noneconomic damage, and in the past, pain and suffering for that has been recognized, because common law recognized human beings and their pain. So when we supersede that, when we repeal that, that is my point.

Mr. VOLKMER. Mr. Speaker, if the gentlewoman would continue to yield, what I am trying to get across is what you are going to end up with is there is no damages, really, for a woman's loss of the ability to have a baby.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

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

The President has threatened to veto heart transplants, heart valves, brain shunts, knee joint replacement, hip joint replacements and 100 other medical devices that people are starving for, waiting for their lives to be helped with the implantation of these medical devices.

Title II of this bill provides for relief for biomedical suppliers who in the past have provided a little bit of plastic for a heart valve or a little bit of a gimmick for a brain shunt, and now the suppliers who have been hit with tremendous lawsuits are going out of the business of supplying these little bit of elements for much-needed medical devices.

□ 1045

So in title II, we solve that problem and we know the companies that have

been heretofore supplying these medical devices are going to be back in business. If we allow this bill to be vetoed, and I hope it is not, what is going to happen is that the medical device developers and manufacturers will again be short of the materials they need to create these devices. We ought to pass the rule and pass the bill and then urge the President not to veto it.

Mr. Speaker, there are 8 million people in our country who today have some kind of medical device implant, pacemakers, as I said, brain shunts, all kinds of things, including hip joints and knee joints, which are part of the makeup of many of the Members of Congress. But if we do not pass this bill, then the suppliers of the basic elements required for these medical devices will simply not supply them because of the fear of massive lawsuits. That is what we are talking about.

When you talk about the consumer as being damaged by the passage of this bill, I am telling you that the person who is waiting for a heart transplant is being damaged by the failure to pass this legislation. The recipient of a brain shunt is being damaged by the failure to pass this legislation, and he is a consumer too.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Speaker, I appreciate the opportunity to speak on this. I would urge that we defeat the previous question, and we oppose the rule under which this bill will be brought up today. The last speaker spoke about consumers, and that is what I would like to talk a little bit about here today and hope they do not get lost in this whole discussion.

Mr. Speaker, today we will hear from my friends on your side of the aisle that it costs so much more to do products, whether it is a medical device or a simple stepladder. It costs one-third more because of product liability insurance. We have heard a lot about especially the stepladder; it seems to be the one that is making the TV news. So I called my local hardware, Walter Brothers True Value up in Menominee, and I said, how much does it cost for a stepladder, an 8-foot aluminum stepladder? They said it is \$130. So if one-third of it goes for product liability insurance, then we should be able to reduce that upon enactment of this bill by \$43, so that stepladder should now only cost \$87.

Mr. Speaker, I offered an amendment to do just that, to make sure that consumers are protected, not only for product safety but also protect their pocketbook and the cost that they say would be generated if we pass this legislation. Of course my amendment was rejected. So let us see who gets the money here and who gets protection here.

Will the manufacturers be required to reduce their costs by one-third underneath this bill? No. Will the product liability insurance companies be re-

quired to reduce their premium notices by one-third? No. Will the consumer be required to do anything in this bill? Yes.

They will be required to give up some rights. They will be required to bring action. They will be required to give up rights for punitive damages for faulty manufacture, for defective products, for inadequate warnings. So who is losing here? The consumer. The consumer.

From the fall on the ladder, the windfall goes not to the consumer but to the insurance company and the manufacturers. Not just stepladders, but the decrease in the cost of vaccinations, will that occur in this bill? Is there any requirement here? No. How about medical insurance? No. How about child safety seats? No.

Mr. Speaker, we are going to limit the rights of ordinary people to bring a cause of action for their injuries and damages, and it is a windfall for large corporations, manufacturers, and the insurance company. My amendment would have helped to ensure it would put some integrity into the system to make sure those cost savings are passed back to the American people and, unfortunately, my amendment failed and was not even considered by the majority.

So I have great reservations and hope we will oppose the previous question and hope we go back and get an equitable rule on this.

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

Mr. STUPAK. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Does the gentleman consider a person who is waiting for a heart transplant a consumer that ought to be protected and should have the benefit of a heart transplant and should have laws in place that will facilitate the flow of materials to the medical device manufacturer, who will eventually be part of the heart transplant device? Does the gentleman favor legislation that would make it easier for a transplant recipient to receive that transplant?

Mr. STUPAK. Yes. I favor that the heart transplant be done safely for less money.

Mr. GEKAS. Of course.

Mr. STUPAK. for less cost.

Mr. GEKAS. Of course.

Mr. STUPAK. And that the consumer be protected. That is not in this bill.

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

Mr. Speaker. I would like to tell the gentleman from Michigan that his amendment was not ignored by the majority. It was considered and found wanting.

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

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri [Mr. VOLKMER].

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

Mr. VOLKMER. Mr. Speaker, I am really truly amazed. I heard this morn-

ing when I came over the Speaker talk about what great things they had done yesterday with the legislation, but one of the things he did not mention in that legislation was the exemption of certain insurance policies under that health bill from State regulation. Now we do not have any Federal regulation. That is taking away States' rights from the majority.

Mr. Speaker, they always talk about States' rights, what States should be able to do, and then in this bill, right in this bill, one of the worst things I have ever seen proposed is that in product liability cases, in the future under this legislation, in the State court, we are not going to be able to follow State law. Never, never in the history of this country has that been done, never.

We cannot follow State law. We have to follow this law in State courts. It preempts all 50 State product liability laws as relates to suits by consumers. But if it is a suit by a commercial firm against a manufacturer, it is not preempted. Hey, wait a minute. Why? Well, that is business and business. It is OK for business and business, State law. But when it comes to consumers and manufacturers, then it is not.

Mr. Speaker, I thought that we should provide that if we want to do it for Federal courts and Federal law, that is one thing. But for this reason alone, the preemption of all State product liability laws, we are telling our State legislatures out there, our State courts that they do not know what is going on, they do not have the right to decide what laws should affect cases, not only in the State of Missouri, but the State of Wisconsin, the State of New York. No, we have to follow the Federal law in the State court. Never has that been done. For that reason alone, I urge the President to veto this legislation.

One other matter that I like to bring out that has not been discussed here, utilities out here, gas companies and others. There is strict liability on what they do. That means if they do it, and we prove that they did it, we do not have to prove gross negligence or anything else. Not anymore. Not under this bill. They have damage caps. We still have the strict liability. But damage caps are on it.

To give a little example, and these things happen not regularly but every once in a while throughout this whole United States. We have natural gas, which I use in my home, both up here and out in Hannibal, used in my office when I was practicing law back in Hannibal for heating, et cetera. Once in a while, there are gas leaks and there are explosions and people get hurt. Ok, so we get economic damages, we get our out-of-pocket.

But what happens when the utility has been notified, that gas company has been notified well in advance not one time, not two times, not three times, but at least a dozen times over a period of 2 weeks and they do nothing and you have an explosion and people

are killed and people are maimed for life and burned, disfigured. Two hundred fifty thousand dollars on punitive damages, that is it.

That is what we are telling the consumers out there. That is all they can get. That is it. We have to follow this. We cannot go to State court. We have to do it under Federal law. We have to do it under this law. Veto the bill, Mr. President.

Mr. LINDER. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Speaker, not long ago we read about an arson that was committed at the DuPont Plaza Hotel, Puerto Rico. The place burned down, but it was an arson, so naturally the lawyers descended on the scene, and they did not sue the arsonist. They sued every manufacturer of anything that was contained in the hotel. They sued the manufacturer of the drapes and the beddings. They sued the manufacturer even of the casino dice.

The kind of feeding frenzy that occurs at the filing of these lawsuits and the attempt to get everyone to settle is really best described as extortion. The people that are getting extorted in the first instance of course are all the people who are being made to pay for something that they did not do. But in the end, the people who are being made to pay are all of our constituents; in fact, all of us.

Mr. Speaker, we pay more for things like our home insurance. We pay more for things like a new computer or even or common stepladder. We pay more certainly for our car insurance. All of these things are taxed by an unfair tort system that right now, because of excesses, not because of the substance of justice that we all want to preserve but because of excesses, has turned our civil justice system into a great wheel or fortune lottery.

In 1987, my home State of California was home to 107,000 lawyers. Now, we had some rough years for our State's economy thereafter, but over the next 5 years, while other things were suffering, the legal industry did quite nicely, thank you. California gained 28,000 lawyers on top of the 107,000 for an increase of more than 25 percent. Today, there are more than 143,000 lawyers in California. Few, if any industries in California, in our State, can claim that kind of growth rate.

As fast as the number of lawyers has been growing, legal fees, the revenues of the legal industry, have been growing faster still. In 1987, the California legal industry, lawyers' fees, took in \$10.4 billion, or should we say took out from the economy \$10.4 billion. But over the next 5 years, again when the economy was not doing that well, this amount grew to \$16.3 billion. Those were the revenues of the legal industry, an increase of 57 percent.

That \$16.3 billion in revenues for the California legal industry is more than we spend on auto repairs, on funerals,

on tanning salons, on 1-hour photo finishers, video tape rentals, detectives and armored car guards, bug exterminators, laundry, day care, shoe repairs, septic tank cleaning combined. Combine all of those industries in California, you do not get as much as we shell out for lawyers. There is an excess and we are trying to scale it back.

Mr. Speaker, this is not loser pays. This is not some of the things that we watch our competitor nations around the world use to rein in these excesses. It is a very simple reform. It applies only to products and to charities, and it does not, I would like to make this very plain, cap punitive damages. It does not.

Everybody is complaining oh, my gosh, there is a \$250,000 cap on punitive damages, but there is not at all. The cap on punitive damages in this bill is infinity. That is why it is so bipartisan. That is why everyone is willing to sponsor it. Technically, what we have said is that you can get as punitive damages the greater of \$250,000 or twice compensatory damages. Compensatory damages is a lawyer's word for things like pain and suffering, emotional distress, injured feelings, and there is no limit whatever on that. Infinity is the limit on such damages, so they claim the sky is the limit there and multiply it by two and that is the limit on punitive damages in this bill.

This modest reform is supported, therefore, by Democrats and Republicans in both Chambers. It is as modest as we can get, and those who stand up and oppose it, I say, want no reform at all.

□ 1100

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I am trying to figure out why it is that the State of West Virginia cannot make its own decision in this regard as it has done since it became a State in 1863. I am trying to figure out why it is the State of California or Illinois or Texas or, whenever, Alaska cannot make its own decisions about how it protects its own citizens as they each have done since they came into the Union.

I am trying to figure out why it is that in an era when we seem to be moving in and this Congress seems to be wanting to be moving toward deregulation, toward, quote, taking regulation off the backs of people, unquote, in which the Government tries to safeguard the population in safety and workplace safety and consumer product safety and other areas, at a time when regulation is being cut back because we want to encourage the individual, why it is then we are not letting the individual retain the individual's ability to protect themselves and to protect themselves against products that are created unsafe, that are used in the workplace or by consumers.

Regulation is going down at the same time you are going to tell individuals

their ability to protect themselves is going down as well. Who is it that thinks you can stand up to a major international corporation and one person if you do not have the aspect that you are going to pay for what you do. Oh, I know the arguments that are going to be made. The argument is that, well, for compensable injuries where you can show the medical damages, no limit on that, and for non-economic damages, that is pain and suffering, that is right, that means that you are in a wheelchair for the rest of your life and somebody is trying to put a dollar value on that. Good luck. However, they even limit that by saying joint and several liability, it would not be applied there. That means that if you have several defendants and one of them goes bankrupt, you cannot recover the full amount from the others. That would be eliminated.

I am trying to figure out why it is the State of West Virginia is not able to enact the laws to protect its own citizens. It seems to me, if there is a problem here, frivolous lawsuits are being filed, then it would seem to me the States would be the first ones to leave.

The gentleman from California who just spoke, I believe it was California that just defeated by referendum several so-called tort reform measures that go exactly to what is trying to be accomplished in this bill. You have got frivolous lawsuits, then, fine, there are sanctions against lawyers that can be taken. You want to stiffen those sanctions, that is fine; the States do that. In our State we elect our judges. Are judges giving away unfair, unruly verdicts? Fine, deal with those judges. Is there a problem that can be fixed by the legislature? Legislatures can each pass one of these pieces of legislation. Fine, deal with the legislature, and our people have an ability to get to that quickly at a time when the States are being the ones that are seen as closest to the people, and more power should be devolved upon the States. This seems to go in the opposite direction, does it not? It seems to say we do not trust the States to protect their own people. That is what I think is most offensive about this so-called product liability. I urge defeat of the rule and the bill.

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary.

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

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

Mr. Speaker, I would like to say to my good friend from West Virginia and a more aptly named human being I do not know, Mr. WISE, that back in 1789 that argument made sense. Each colony could take care of its own. But today we have a mobile society, and over 70 percent of items that are manufactured get into interstate commerce

and a patchwork of 50 different sets of laws having to do with product liability gives insurance companies nightmares trying to predict what rates to charge. It makes it very difficult to comply with all of the different patchwork laws. So because interstate commerce is so intimately involved in modern-day manufacturing and shipping, it was felt useful to have some standard to which manufacturers could repair, to which insurance companies who cover these incidents could repair, and even plaintiff's lawyers could repair. So that is really the reason. It is a concession to modernity.

Now, the gentleman who spoke before from Hannibal, who unfortunately had to leave the floor for one reason or another, or chose to, I would like to have informed him that his graphic example of the natural gas explosion is specifically excluded in the bill, and you know one of the problems I learned early in life is people know so many things that are not so, and reading the bill is a great idea. And if he had done that, he would have known that there is an exclusion. There are many exclusions, electricity, water, delivered by utility, natural gas or steam, water delivery; they are specifically excluded. So his example of the explosion that killed so many people and injured so many people, the sky would be the limit, would be a plaintiff's lawyers' dream.

So I just wanted him to know that.

Mr. FROST. Mr. Speaker, I yield 3½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me this time and the member of the Committee on Rules and my colleagues from Texas.

Mr. Speaker, I think it is misconstruing the concern that is being raised today of the people, those of us who have risen to oppose the rule, as not having a general sense and appreciation for the concerns of small businesses and the concerns of those who would want to have an equal balance and fairness between litigants in the courtroom.

What disturbs me is the approach that this bill has taken. First of all, it refutes a basic principle that the Republicans have been espousing now for more than a year under the new Republican leadership, leave it to the States. My State, the State of Texas, has very adequately and very ably handled tort reform. It was a consensus effort between consumers and businesses alike, and they are now functioning under new State tort reform law signed by the Governor of the State of Texas. Yet this Congress now wants to tell my State that any law we pass today will preempt the consensus built over years and months of negotiation. That troubles me.

Then we find ourselves faced with an unfair attack on consumers, particu-

larly those who are not as economically endowed as the chief of one of our corporate 500 companies or maybe one who is maybe independently wealthy. And so if you happen to be retired, or a housewife, or a student, then you do not have a basis for a reward that is attributable and equal to the injury that you have suffered because your economic losses would be low. That is unfair to consumers.

We find ourselves now passing legislation that will alter the standard of proof. For years this constitutional Nation has acted under a preponderance of the evidence in civil matters. Now we are asking consumers with little means to be able to go into court against major corporations and businesses with massive resources and now be required to prove clear and convincing evidence which would show a conscious, flagrant indifference to the rights and safety of those harmed. How unfair.

First of all, I think many of my colleagues will admit when you go into a civil court on any major tort litigation, you wind up being there for at least between 6 to 10 years. It may be even longer. There is no rush to settlement on these cases, and so you have got the injured family, the family of a deceased loved one, tragically having to mourn their loss and then deal with an elongated process in the courts. And now this legislation would require the plaintiff to prove clear and convincing, to climb over this hill beyond what is going on in other cases in civil suits.

Just take, for example, this provision that talks about older products, the older products provision that prohibits a course of action if the product is 15 years old. What about the playground equipment that a child may play on? Fifteen years is not very long. What if it is 15½ years? Does that severely injured child not have a remedy?

What about the provision 82 Republicans supported that would put foreign manufacturers under U.S. laws? We do not have that anymore. What about the provision that we tried to amend this particular bill to protect products used by women, affecting reproductive organs, causing fetal malfunction? We do not have that. This is not a good piece of legislation.

Let us leave it to the States. Let us resolve to find a way to be fair to the consumers of America.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, the ostensible justification for moving this legislation today is that our criminal justice system is overcrowded, sluggish, excessively costly. We have to do something about it. And if this bill did anything about it, I think that we could give some praise to the Republican Party.

However, what they have done here is avoid the real litigation explosion in our country. Product liability cases constitute only about 2 percent of all

lawsuits filed in State courts and only about 3 percent of all civil jury trials. By comparison, 48 percent of the civil lawsuits filed in State courts and 18 percent of all the cases tried are disputes between businesses. These business-versus-business lawsuits accounted for 63 percent of the lawsuits since 1989 which resulted in a verdict or a settlement exceeding \$50 million.

So what has the conference report done on these lawsuits? Absolutely nothing. The Committee on Rules would not even allow me to bring an amendment out here on the floor on this blight upon the law system of our country. The conference report actually contains provisions that explicitly exempt all civil actions brought for commercial lawsuits from any of the harsh new procedural substantive provisions in the bill.

Let us just consider some of the cases they do not want to deal with. McDonald's brought a temporary restraining order to prevent Burger King from airing ads comparing the Big Mac unfavorably with the Whopper. Walt Disney sued the Motion Picture Academy to force a public apology for an unflattering portrayal of Snow White at the Academy Awards ceremony. Advil sued Tylenol for such weighty legal issues as whether Tylenol was as effective as Advil for headache pain and whether Tylenol is unbeatable for a headache. Scott Paper sued Procter & Gamble, claiming it had allegedly misled consumers about the absorptive power of Bounty paper towels by claiming Bounty was the Quicker Picker-Upper.

Now, did they go after these cases in this bill? Absolutely not. Business suing business frivolously, and area after area? Which case do the Republicans want to take on? It is where an individual has been harmed by a product, where the lawnmower, where some consumer product has exploded in the face of a family member. Those are the people they are going to take on. Those are the people they are going to tell cannot sue any longer.

This is a disgrace. The real abuse in the courts are businesses suing businesses. That is 90 percent of the problem that we have got, frivolous case after frivolous case being brought. It is time that we brought the truth to these issues and rejected this conference report.

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

Mr. Speaker, I would just like to take enough time to point out to the gentleman from Massachusetts that he did not bring his amendment to the Committee on Rules and we do not amend conference reports.

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

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, clearly this bill is anticonsumer. It is antiaverage person because indeed it is putting the greater burden on those

who trust and buy products. It is saying to those persons that we prefer to protect the businesses that make and purport to make it safe for your consumption.

□ 1115

This is not a bill that is talking about frivolous cases. It is not frivolous, indeed, when there is an implant that destroys the life of a woman. It is not frivolous indeed when a mother buys a baby garment and that garment harms that child. These are not frivolous cases; these are cases about life and death.

So why would you even claim that when an individual is injured or is maimed or killed, that is frivolous? How is human life frivolous? It is frivolous to say that a mother or child is less valuable than with someone who works. To compute the \$250,000 cap based on that, and that the award is based on their economic value, is to deny the individual worth of all individuals.

Mr. Speaker, this is a bad bill. Americans know this is a bad bill. This is a bill to award big business, to remove their liability for all the consumers. I urge the defeat of this rule and the defeat of the bill.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, strangely, this piece of legislation rejects the notion that I have heard so often voiced from this microphone about the concept of personal responsibility. It is OK to demand personal responsibility of the most disadvantaged, of the poorest people, of the most vulnerable people in our society. But, for some reason, it is the position of those who support this conference report that it is inappropriate to demand full personal responsibility of those who kill and maim and destroy the lives of their neighbors.

In many cases, the cases that generate the largest verdicts, that get talked about the most, result from those who place profits over safety, time and time again, when they had one report after another coming in from across America that people were being damaged, that they were being hurt, being killed by their products, and those reports were ignored and the lives of other Americans were endangered as a result. But that concept of personal responsibility is totally and completely disregarded by those who support this bill.

The second concept that has been talked about so much, as if it were a new invention, is that of States rights. What is wrong with the jurisdiction and the legislatures of these 50 United States addressing this issue? Why is it that from this microphone there is only support for State wrongs, but never support for States rights?

I say that the States ought to be able to address these issues themselves. I had a small business person in my of-

fice last week speaking generally in favor of this piece of legislation. Yet every one of the reforms that he thought were important to be implemented in this legislation had already been implemented by the Texas legislature.

Why not have these decisions made on Congress Avenue in Austin, TX, instead of up here on the Potomac in Washington? What is going to be the dividing line? If we are going to have the Congress of the United States interfere in States rights in this issue, why not in every other part of our life?

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of the rule and of the conference report. Our out-of-control legal system is ruining the productivity of American manufacturing. Because the price of all of these crazy lawsuits and big judgments and product liability insurance premiums are all folded into our products that we try to sell, both at home and abroad, we end up being at a significant competitive disadvantage to our foreign competition, and specifically the British and the Germans and the Japanese.

This legislation is a significant step forward to bringing American manufacturing more competitive. When that happens, that is going to mean more jobs for American people. So we are not talking about protecting big business here, we are talking about creating jobs at home, rather than having our legal system destroy jobs at home and create jobs abroad.

Second, the original bill that passed the House contained medical malpractice insurance reform. It is no longer necessary to consider that issue in the context of this legislation, because the House took care of that issue last night when we passed the insurance reform bill with a medical malpractice reform component in it. So splitting off medical malpractice into other legislation has made this legislation easier to pass through reaching an agreement in the conference committee.

I want to commend the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary and chairman of the conference committee, for crafting a very good bill that will be in the public interest. I hope it passes by more than a two-thirds vote today, because that will send the White House a needed message to sign this legislation.

Mr. FROST. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS].

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

Mr. CONYERS. Mr. Speaker, I want to thank the gentleman from Texas [Mr. FROST] for his management of the rule in this matter, and bring to the attention of the Members the one reason that this rule should be rejected. That

is because the provision that I put in the bill that would have helped American consumers by making it easier to obtain legal process and discovery against foreign manufacturers was quietly dropped in conference, at the insistence of foreign lobbyists. It was dropped, even though we then instructed the conferees to retain this provision in conference, overwhelmingly bipartisan.

So join me in rejecting the rule to have this amendment that would make foreign manufacturers liable like domestic manufacturers are for defective products.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

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

Mr. STEARNS. Mr. Speaker, I just rise in support of the rule. It is a long time in coming on this product liability. I know many of us were on what is called the old subcommittee on competitiveness in which we had an opportunity to have hearings on this, and this has been part of the Republican contract for America. But, more importantly, it has been an agenda which both Democrats and Republicans have had bipartisan support for. This support goes back to the 103d Congress where I had the opportunity to be the ranking member with the gentlewoman from Illinois [Mrs. COLLINS]. She and I passed a product liability bill out of our subcommittee which had bipartisan support. So I am in strong support of this rule, and I hope the bill will pass overwhelmingly.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. GUNDERSON). The gentleman from Texas is recognized for 1½ minutes.

Mr. FROST. Mr. Speaker, I urge a "no" vote on the previous question.

If the previous question is defeated I intend to offer an amendment to the rule which would provide that the House will have adopted a concurrent resolution directing the Clerk to correct the enrollment of this conference report by adding the Conyers foreign manufacturers amendment, section 107 of the House passed bill.

This amendment would level the playing field by subjecting foreign corporations to the same jurisdiction and discovery rules that their U.S. counterparts face.

The text of my amendment as follows:

AMENDMENT TO RULE ON PRODUCTS LIABILITY
CONFERENCE REPORT

At the end of the resolution, add the following:

"SECTION . Upon the adoption of this resolution, the House shall be considered to have adopted a concurrent resolution directing the Clerk of the House to correct the enrollment of H.R. 956 and consisting of the text contained in the next section of this resolution.

"SECTION . Resolved by the House of Representatives (the Senate concurring). That in

the enrollment of the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

At the appropriate place, add the following:

SEC. . FOREIGN PRODUCTS.

(a) GENERAL RULE.—In any product liability action for injury that was sustained in the United States and that relates to the purchase or use of a product manufactured outside the United States by a foreign manufacturer, the Federal court in which such action is brought shall have jurisdiction over such manufacturer if the manufacturer knew or reasonably should have known that the product would be imported for sale or use in the United States.

(b) ADMISSION.—If in any product liability action a foreign manufacturer of the product involved in such action fails to furnish any testimony, document, or other thing upon a duly issued discovery order by the court in such action, such failure shall be deemed an admission of any fact with respect to which the discovery order relates.

(c) PROCESS.—Process in an action described in subsection (a) may be served wherever the foreign manufacturer is located, has an agent, or transacts business.

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

Mr. Speaker, I just would like to point out for those coming to the floor to vote on this issue that nobody criticized the rule. It is a normal rule for a conference report. The debate throughout the whole last hour has been on the bill. We will have an opportunity to debate that in the next hour and vote on that.

I urge my colleagues to come to the floor and vote for the previous question, vote for the rule, and move on to the bill.

Mr. Speaker, I yield back the balance of time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

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

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of 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 adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 237, nays 173, not voting 21, as follows:

[Roll No. 108]

YEAS—237

| | | |
|------------|--------------|-----------|
| Allard | Ballenger | Bateman |
| Archer | Barr | Bereuter |
| Armey | Barrett (NE) | Billbray |
| Bachus | Bartlett | Bilirakis |
| Baker (CA) | Barton | Bliley |
| Baker (LA) | Bas | Blute |

| | |
|---------------|---------------|
| Boehrlert | Goss |
| Boehner | Graham |
| Bonilla | Greenwood |
| Bono | Gunderson |
| Boucher | Gutknecht |
| Browder | Hall (TX) |
| Brownback | Hancock |
| Bryant (TN) | Hansen |
| Bunn | Hastert |
| Bunning | Hastings (WA) |
| Burr | Hayworth |
| Burton | Hefley |
| Buyer | Heineman |
| Callahan | Herger |
| Calvert | Hilleary |
| Camp | Hobson |
| Campbell | Hoekstra |
| Canady | Hoke |
| Castle | Holden |
| Chabot | Horn |
| Chambliss | Hostettler |
| Chenoweth | Houghton |
| Christensen | Hunter |
| Chryslers | Hutchinson |
| Clinger | Hyde |
| Coble | Inglis |
| Coburn | Istook |
| Collins (GA) | Johnson (CT) |
| Combest | Johnson, Sam |
| Condit | Jones |
| Cooley | Kasich |
| Cox | Kelly |
| Cramer | Kim |
| Crane | King |
| Crapo | Kingston |
| Creameans | Klug |
| Cubin | Knollenberg |
| Cunningham | Kolbe |
| Davis | LaHood |
| Deal | Largent |
| DeLay | Latham |
| Diaz-Balart | LaTourette |
| Dickey | Laughlin |
| Doolittle | Lazio |
| Dornan | Leach |
| Dreier | Lewis (CA) |
| Dunn | Lewis (KY) |
| Ehlers | Lightfoot |
| Ehrlich | Linder |
| Emerson | Livingston |
| English | LoBiondo |
| Ensign | Longley |
| Everett | Lucas |
| Ewing | Manzullo |
| Fawell | Martini |
| Flanagan | McCollum |
| Foley | McCrery |
| Forbes | McDade |
| Fox | McHugh |
| Franks (CT) | McInnis |
| Franks (NJ) | McIntosh |
| Frelinghuysen | McKeon |
| Frisa | Metcalf |
| Funderburk | Meyers |
| Galleghy | Mica |
| Ganske | Miller (FL) |
| Gekas | Molinari |
| Gerens | Montgomery |
| Gilchrist | Moorhead |
| Gillmor | Morella |
| Gilman | Myers |
| Goodlatte | Myrick |
| Gordon | Nethercutt |

NAYS—173

| | | |
|--------------|--------------|---------------|
| Abercrombie | Clyburn | Fields (LA) |
| Ackerman | Coleman | Filner |
| Andrews | Collins (MI) | Flake |
| Baessler | Conyers | Foglietta |
| Baldacci | Costello | Frank (MA) |
| Barcia | Danner | Frost |
| Barrett (WI) | DeFazio | Furse |
| Becerra | DeLauro | Gejdenson |
| Beilenson | Dellums | Gibbons |
| Bentsen | Deutsch | Gonzalez |
| Berman | Dicks | Green |
| Bevill | Dingell | Hall (OH) |
| Bishop | Dixon | Hamilton |
| Bonior | Doggett | Harman |
| Borski | Dooley | Hastings (FL) |
| Brewster | Doyle | Hefner |
| Brown (CA) | Duncan | Hilliard |
| Brown (FL) | Durbin | Hinchee |
| Brown (OH) | Edwards | Hoyer |
| Cardin | Engel | Jackson (IL) |
| Chapman | Evans | Jackson-Lee |
| Clay | Farr | (TX) |
| Clayton | Fattah | Jacobs |
| Clement | Fazio | Jefferson |

| | |
|---------------|---------------|
| Neumann | Johnson (SD) |
| Ney | Johnson, E.B. |
| Norwood | Johnston |
| Nussle | Kanjorski |
| Oxley | Kaptur |
| Packard | Kennedy (MA) |
| Parker | Kennedy (RI) |
| Paxon | Kennelly |
| Petri | Kildee |
| Pombo | Klecza |
| Porter | Klink |
| Portman | LaFalce |
| Pryce | Lantos |
| Quillen | Levin |
| Quinn | Lewis (GA) |
| Radanovich | Lincoln |
| Ramstad | Lipinski |
| Regula | Lofgren |
| Riggs | Lowey |
| Roberts | Luther |
| Roemer | Maloney |
| Rogers | Manton |
| Rohrabacher | Markey |
| Ros-Lehtinen | Martinez |
| Roth | Mascara |
| Roukema | Matsui |
| Royce | McCarthy |
| Salmon | McDermott |
| Sanford | McHale |
| Saxton | McKinney |
| Scarborough | Meehan |
| Schaefer | Meek |
| Schiff | Menendez |
| Seastrand | Miller (CA) |
| Sensenbrenner | |
| Shadegg | |

| | |
|---------------|-------------|
| Minge | Sawyer |
| Mink | Schroeder |
| Moakley | Schumer |
| Mollohan | Scott |
| Moran | Sisisky |
| Murtha | Skaggs |
| Nadler | Skelton |
| Neal | Slaughter |
| Oberstar | Spratt |
| Obey | Stark |
| Olver | Stenholm |
| Ortiz | Studds |
| Orton | Stupak |
| Owens | Tanner |
| Pallone | Taylor (MS) |
| Pastor | Tejeda |
| Payne (NJ) | Thompson |
| Payne (VA) | Thornton |
| Pelosi | Thurman |
| Peterson (FL) | Torricelli |
| Peterson (MN) | Towns |
| Pickett | Trafficant |
| Pomeroy | Vento |
| Poshartz | Visclosky |
| Rahall | Volkmer |
| Rangel | Ward |
| Reed | Waters |
| Richardson | Watt (NC) |
| Rivers | Waxman |
| Rose | Wilson |
| Roybal-Allard | Wise |
| Rush | Woolsey |
| Sabo | Wynn |
| Sanders | Yates |

NOT VOTING—21

| | | |
|--------------|-----------|-------------|
| Bryant (TX) | Fowler | Smith (TX) |
| Collins (IL) | Gephardt | Stokes |
| Coyne | Goodling | Torres |
| de la Garza | Gutierrez | Velazquez |
| Eshoo | Hayden | Weldon (PA) |
| Fields (TX) | McNulty | Williams |
| Ford | Serrano | Young (AK) |

□ 1142

Mrs. KENNELLY, and Messrs. PETERSON of Florida, BARRETT of Wisconsin, and RANGEL changed their vote from "yea" to "nay."

Mr. GORDON changed his vote from "nay" to "yea."

So the previous question was ordered. The result of the vote was announced as above recorded.

□ 1145

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

The resolution was agreed to. A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1972

Mrs. MINK of Hawaii. I ask unanimous consent that my name be removed as a cosponsor of the bill H.R. 1972.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2754

Mr. QUILLEN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill H.R. 2754.

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

There was no objection.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question de novo of the Speaker's approval of the Journal.

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

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

RECORDED VOTE

Mr. VOLKMER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 323, noes 83, answered "present" 1, not voting 24, as follows:

[Roll No. 109]

AYES—323

| | | |
|--------------|---------------|--------------|
| Ackerman | Crapo | Hobson |
| Allard | Cremeans | Hoekstra |
| Andrews | Cubin | Hoke |
| Archer | Cunningham | Holden |
| Armey | Danner | Horn |
| Bachus | Davis | Hostettler |
| Baesler | Deal | Houghton |
| Baker (CA) | DeLauro | Hoyer |
| Baker (LA) | DeLay | Hunter |
| Ballenger | Dellums | Hutchinson |
| Barcia | Diaz-Balart | Hyde |
| Barr | Dickey | Inglis |
| Barrett (NE) | Dicks | Istook |
| Barrett (WI) | Dixon | Jackson (IL) |
| Bartlett | Dooley | Jackson-Lee |
| Barton | Doolittle | (TX) |
| Bass | Dornan | Jefferson |
| Bateman | Doyle | Johnson (CT) |
| Beilenson | Dreier | Johnson (SD) |
| Bentsen | Duncan | Johnson, Sam |
| Bereuter | Dunn | Jones |
| Berman | Ehlers | Kanjorski |
| Bevill | Ehrlich | Kaptur |
| Bilbray | Emerson | Kasich |
| Bilirakis | English | Kelly |
| Bishop | Ensign | Kennedy (MA) |
| Bliley | Evans | Kennelly |
| Blute | Everett | Kim |
| Boehlert | Ewing | King |
| Boehner | Farr | Kingston |
| Bonilla | Fattah | Kleczyka |
| Bono | Fawell | Klink |
| Boucher | Fields (LA) | Klug |
| Brewster | Flake | Knollenberg |
| Browder | Flanagan | LaHood |
| Brown (OH) | Foglietta | Lantos |
| Brownback | Foley | Largent |
| Bryant (TN) | Forbes | Latham |
| Bunn | Fox | LaTourette |
| Bunning | Frank (MA) | Laughlin |
| Burr | Franks (CT) | Lazio |
| Burton | Franks (NJ) | Leach |
| Buyer | Frelinghuysen | Lewis (CA) |
| Callahan | Frisa | Lewis (KY) |
| Calvert | Funderburk | Lightfoot |
| Camp | Furse | Lincoln |
| Campbell | Gallegly | Linder |
| Canady | Ganske | Lipinski |
| Cardin | Gejdenson | Livingston |
| Castle | Gekas | LoBiondo |
| Chabot | Geren | Lofgren |
| Chambliss | Gilchrest | Longley |
| Chapman | Gilman | Lowe |
| Chenoweth | Gonzalez | Lucas |
| Christensen | Goodlatte | Luther |
| Chrysler | Gordon | Maloney |
| Clement | Goss | Manton |
| Clinger | Graham | Manzullo |
| Clyburn | Greenwood | Martinez |
| Coble | Gunderson | Martini |
| Coburn | Hall (TX) | Mascara |
| Collins (GA) | Hamilton | McCarthy |
| Combest | Hancock | McCollum |
| Condit | Hansen | McCreery |
| Conyers | Hastert | McDade |
| Cooley | Hastings (WA) | McHugh |
| Costello | Hayworth | McInnis |
| Cox | Hefner | McIntosh |
| Coyne | Heineman | McKeon |
| Cramer | Herger | McKinney |
| Crane | Hilleary | Meehan |

| | | |
|---------------|---------------|-------------|
| Metcalf | Rahall | Spence |
| Meyers | Ramstad | Stearns |
| Mica | Rangel | Stenholm |
| Miller (FL) | Reed | Stockman |
| Minge | Regula | Stump |
| Moakley | Riggs | Stupak |
| Molinari | Rivers | Talent |
| Mollohan | Roberts | Tanner |
| Montgomery | Roemer | Tate |
| Moorhead | Rogers | Tauzin |
| Moran | Rohrabacher | Taylor (NC) |
| Morella | Ros-Lehtinen | Tejeda |
| Murtha | Rose | Thomas |
| Myers | Roth | Thornberry |
| Myrick | Roukema | Thornton |
| Neal | Roybal-Allard | Tiahrt |
| Nethercutt | Royce | Torricelli |
| Neumann | Salmon | Trafigant |
| Ney | Sanford | Upton |
| Norwood | Saxton | Vucanovich |
| Nussle | Scarborough | Waldholtz |
| Ortiz | Schaefer | Walker |
| Oxley | Schiff | Walsh |
| Packard | Schumer | Wamp |
| Parker | Sensenbrenner | Watts (OK) |
| Paxon | Shadegg | Waxman |
| Payne (VA) | Shaw | Weldon (FL) |
| Peterson (FL) | Shays | Weller |
| Petri | Shuster | White |
| Pomeroy | Sisisky | Whitfield |
| Porter | Skeen | Wicker |
| Portman | Skelton | Wilson |
| Poshard | Smith (MI) | Wolf |
| Pryce | Smith (NJ) | Woolsey |
| Quillen | Smith (WA) | Wynn |
| Quinn | Solomon | Young (FL) |
| Radanovich | Souder | Zeliff |

NOES—83

| | | |
|---------------|----------------|-------------|
| Abercrombie | Hilliard | Pickett |
| Baldacci | Hinche | Pombo |
| Becerra | Jacobs | Richardson |
| Bonior | Johnson, E. B. | Rush |
| Borski | Johnston | Sabo |
| Brown (CA) | Kennedy (RI) | Sawyer |
| Brown (FL) | Kildee | Schroeder |
| Clay | LaFalce | Scott |
| Clayton | Levin | Skaggs |
| Coleman | Lewis (GA) | Slaughter |
| Collins (MI) | Markey | Spratt |
| DeFazio | Matsui | Stark |
| Deutsch | McDermott | Studds |
| Dingell | McHale | Taylor (MS) |
| Durbin | Meeke | Thompson |
| Edwards | Menendez | Thurman |
| Engel | Miller (CA) | Torkildsen |
| Fazio | Mink | Towns |
| Filner | Nadler | Vento |
| Frost | Oberstar | Visclosky |
| Gephardt | Obey | Volkmer |
| Gibbons | Olver | Ward |
| Gillmor | Orton | Waters |
| Green | Owens | Watt (NC) |
| Gutknecht | Pallone | Wise |
| Hall (OH) | Pastor | Yates |
| Hastings (FL) | Payne (NJ) | Zimmer |
| Hefley | Peterson (MN) | |

ANSWERED "PRESENT"—1

Harman

NOT VOTING—24

| | | |
|--------------|-----------|-------------|
| Bryant (TX) | Goodling | Serrano |
| Collins (IL) | Gutierrez | Smith (TX) |
| de la Garza | Hayes | Stokes |
| Doggett | Kolbe | Torres |
| Eshoo | McNulty | Velazquez |
| Fields (TX) | Pelosi | Weldon (PA) |
| Ford | Sanders | Williams |
| Fowler | Seastrand | Young (AK) |

□ 1159

Mr. DINGELL changed his vote from "aye" to "no."

Mr. BARCIA changed his vote from "no" to "aye."

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, this morning I was attending the funeral of a close friend. Regrettably, I missed rollcall vote 108, House

Resolution 394, on ordering the previous question. I also missed rollcall vote 109 on approving the Journal. Had I been present I would have voted "yea" on both.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 159

Mr. GOSS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Joint Resolution 159.

The SPEAKER pro tempore (Mr. GUNDERSON). Is there objection to the request of the gentleman from Florida? There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 159, TAX LIMITATION CONSTITUTIONAL AMENDMENT

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104-513) on the resolution (H. Res. 395) providing for consideration of the joint resolution (H.J. Res. 159) proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 842, TRUTH IN BUDGETING ACT

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104-514) on the resolution (H. Res. 396) providing for consideration of the bill (H.R. 842) to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1834

Ms. JOHNSON of Connecticut. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1834.

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

There was no objection.

CONFERENCE REPORT ON H.R. 956, COMMONSENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996

Mr. HYDE. Mr. Speaker, pursuant to House Resolution 394, I call up the conference report on the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to clause 2(c) of rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of March 14, 1996, at page H2238.)

The SPEAKER pro tempore. The gentleman from Illinois [Mr. HYDE] and the gentleman from Michigan [Mr. CONYERS] each will control 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 956.

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

There was no objection.

Mr. HYDE. Mr. Speaker, I yield 15 minutes of my time to the gentleman from Virginia [Mr. BLILEY], chairman of the Committee on Commerce, and I ask unanimous consent that he may be permitted to control that 15 minutes.

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

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield 15 minutes to the gentleman from Michigan [Mr. DINGELL], former ranking member of the Committee on Commerce, the Dean of the House, and I ask unanimous consent that he be permitted to yield time in blocks.

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

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself 2 minutes.

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

Mr. HYDE. Mr. Speaker, I rise in support of the conference report on H.R. 956, the Commonsense Product Liability Legal Reform Act of 1996. This legislation is an important first step in the longstanding congressional effort to reform our legal system. Although the reforms contained in the conference report do not go as far as I and many in this Chamber would have liked, this legislation takes some important first steps in restraining the excesses of the current out-of-control legal system. It is a solid downpayment on long-needed reform.

When the House passed H.R. 956, the Commonsense Product Liability Legal Reform Act of 1995, in March of last year, we did so on a strong bipartisan vote of 265 to 161. That vote sent a message that the new Republican majority in Congress was resolute in its commitment to bring about broad-based legal reform and an end to lawsuit abuse. It has taken us more than a year to complete this process, but we now have before us a conference agreement which, while not as ambitious as the House bill, will for the first time in the his-

tory of Congress take aim at the inequities and inefficiencies of our legal system.

This is not only a first step in the direction we need to head, but it is a step which we can realistically enact this year. The Senate has already approved this measure by a vote of 59 to 40. Despite the fact that the agreement does not go far as reforms that the House voted for—notably extending relief to all civil actions—we must not lose sight of the fact that product liability reform is an historic accomplishment. It will unleash an American job creation boom and will translate into real growth for our economy.

I would like to take this opportunity to highlight several key provisions contained in the conference report.

STATUTE OF REPOSE

One very important part of this conference agreement imposes a uniform statute of repose of 15 years for cases involving durable goods. A statute of repose specifies the period of time after manufacture of a product during which a lawsuit relating to the product may be brought. The statute of repose addresses the unfairness that results when manufacturers are sued on the basis of products that left their control many years ago. This allows U.S. manufacturers to compete with foreign companies that have entered the marketplace in recent years and face no liability exposure for very old products.

Section 101(7) of the conference report defines the term durable good as meaning first, "any product or any component of any such product which has a normal life expectancy of three or more years" or second, any product which "is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986 and which is: (A) used in a trade or business; (B) held for the production of income; or (C) sold or donated to a governmental or private entity for the production of goods, training, demonstration or any other similar purpose." Thus, the agreement describes two distinct categories of products which will be covered by the statute of repose provision.

Under the first clause of the definition, a manufacturer of a product such as a machine tool, farm equipment, a bicycle or a ladder, a toaster or gas furnace, an elevator, or building materials such as plate glass, wall coatings, or roofing tiles could not be sued based on harm allegedly caused by that product more than 15 years after the product was first delivered. Thus, a product which has a normal life expectancy of 3 or more years need not meet any other criteria to qualify as a durable good.

Again, the second clause of section 101(7) covers products that are subject to allowance for depreciation under the Internal Revenue Code and used in a trade or business, held for the production of income, or sold or donated to a governmental or private entity for the production of goods, training, or similar purposes. These types of products would also be covered by the 15-year

statute of repose adopted in the conference agreement.

Some have erroneously stated that the statute of repose in the conference report is confined to goods used in the workplace. That is not correct. The language of the conference agreement is clearly not limited in this manner, nor should it be.

In his eloquent statement in support of the legislation, Senator GORTON pointed out two examples—step ladders and football helmets—where a large proportion of the price of the product is accounted for by the cost of product liability actions and insurance. Senator GORTON's use of these examples underscores the irrationality of any workplace limitation on the statute of repose. A workplace limitation would make unjustified and unfair distinctions between products, and could produce wildly inconsistent results for manufacturers who may have no control over where, and under what circumstances, their products may be used.

For example, if the statute of repose were limited in such a manner, a manufacturer of a ladder used in the workplace would be protected 15 years after the ladder is sold; but if that same ladder is used in the home the statute of repose would not apply. A football helmet used in professional sports would be covered by the statute of repose; but one used in other settings would not be. There are numerous other examples of arbitrary distinctions and unequal treatment that would result from a workplace limitation. A manufacturer of a mower used by a farmer would be protected from lawsuits after 15 years, while one whose same product is used by a weekend gardener would not be. The conference report rightly eliminates these types of arbitrary and unfair distinctions.

The statute of repose provision contains certain exceptions. It does not, for example, preempt the 18-year statute of repose contained in the General Aviation Revitalization Act of 1994. Neither does it apply in a case involving a vehicle used primarily for hire, where the existing State statute of repose, if any, would continue to apply.

The conference agreement provisions will also not apply in the case where the manufacturer or seller has expressly warranted the safety or life expectancy of the product to be longer than 15 years. In those cases, the private agreement of the parties will control.

The statute of repose also includes a toxic harm exception, which has been the source of a great deal of confusion and uncertainty. This exception was included in the Senate-passed bill to address a concern which had been raised about products that cause physical injuries that are latent, that is, injuries that do not manifest themselves for many years after a person is first exposed to a product.

Because the term "toxic harm" was not defined in the Senate bill and is

not defined in the conference report, I want to spend a few moments clarifying the congressional intent with respect to the scope of this provision. Numerous Federal statutes and regulations contain definitions of the word "toxic," and some of those definitions differ widely from others. Some of those definitions, if relied upon to interpret the "toxic harm" exception in H.R. 956, would broadly except from the statute of repose products where the alleged harm ranges from harm caused by excessive noise, cold, vibration, or repetitive motion—such as repetitive stress injury—to those in which the alleged harm is caused by chemical or other elements, to products like asbestos, where the injury to a person caused by the product may be latent for many years. The conferees did not adopt or incorporate these wide-ranging definitions.

The House-passed bill contained a provision which addressed the problem the Senate bill sought to address, but which used different words. The House provision excluded from the statute of repose products that cause latent harm, specifically, a "physical illness the evidence of which does not ordinarily appear less than 15 years after the first exposure to the product." Although the words used were different, the intent of the House and Senate provisions was the same: to except from the statute's time bar actions involving products alleged to cause latent illness.

The House, therefore, receded to the Senate bill's use of the "toxic harm" language, because it too is intended to provide an exception only for products that cause physical illness, evidence of which cannot be detected until long after exposure to the product, such as, harm that cannot be detected within a 15-year period.

Finally, it is important to note that the statute of repose contained in the conference agreement only preempts State statutes of repose which are longer than 15 years. It also does not limit a State statute of repose from extending beyond durable goods to other types of products. Thus, for example, a State statute of repose, which limits suits to those brought within 12 years of delivery of the product, and which covers all goods, would not be affected by the conference agreement.

PUNITIVE DAMAGES

The conference agreement generally adopts the Senate's language regarding a limitation on punitive damages. Punitive damages are intended for cases where the defendant's conduct has been particularly harmful—where the conduct involved gross negligence or intentional conduct. They should be awarded only in the most serious cases.

Punitive damages are generally limited to two times compensatory damages or \$250,000 whichever is greater. This limitation will be imposed by the court in the event that a jury—which is not to be told of the cap—awards a higher amount. In the event that the

cap operates to limit an otherwise higher jury award, the conference agreement allows the court to consider whether that cap is appropriate. If after reviewing the facts of the case the court finds that the amount of punitive damages allowed under the cap is inadequate, the court may increase the award, up to the amount of the initial jury punitive damage award level. In no event may the punitive damage award exceed the amount of the original jury verdict.

The limitation on the court's ability to award punitive damages in excess of the cap in no way suggests that the court will not have the normal discretion to review and decrease punitive damage awards in the proper circumstances. This power will continue to exist whether or not the initial jury award exceeds the limitation imposed under the conference agreement.

A special rule applies in the case of defendants with a net worth of \$500,000 or less, or entities employing 25 or fewer full-time employees. For cases involving those defendants, the cap on punitive damages will be two times compensatory damages or \$250,000, whichever is greater. For cases involving those defendants, the court may not increase the award beyond the statutory limit.

The limitations imposed by the section are to be applied defendant by defendant. Thus, in a case involving two or more defendants, the plaintiff could potentially obtain the maximum amount of punitive damages from each defendant. For purposes of calculating the limit for each defendant, compensatory damages will include only the percentage of damages for which that defendant is found liable.

The conference agreement permits a court to award additional damage under section 108(a)(3), but only in cases of egregious conduct. Egregious conduct in this context means conduct where the defendant against which the punitive damages are awarded specifically intended to cause the harm that is the subject of the action or acted with actual malice toward the claimant. Unless the defendant's conduct meets this standard, the provisions of section 108(a)(3) will not apply, and the court will have no authority to exceed the amount of punitive damages established in section 108(a)(1).

The provisions of the conference agreement in section 108(a)(3) which allow the court to exceed limitations on punitive damages are intended by the conferees to be treated as severable in the event a court determines that judges lack constitutional authority to award additional amounts of punitive damages. Should a court so find, the continued operation of the limitations otherwise imposed by section 108 will not be affected.

Section 108 does not preempt State laws which more narrowly limit the amount of punitive damages that may be awarded. Thus, if a State imposes a dollar limit on punitive damages which

is less than the cap set forth in section 108(a)(1), the State law will apply, and the conference agreement's provision allowing for the award of additional damages by the court will not apply. Similarly, if the State law contains a provision for additur, but restricts the amount of additur permitted to less than the initial jury award, the provisions of the State law will prevail.

Thus, the punitive damage reforms of H.R. 956 are minimum standards and limitations designed to provide some measure of rationality; they would not displace the law of States with more restrictive punitive damage regimes. For example, many States have punitive damage limitations that do not allow the judge to override the statutory maximum. Nothing in the conference report displaces the laws of such States. Similarly, States are free to require higher standards of proof and to impose substantive requirements in addition to those in the conference report.

The preemptive effect of the punitive damage reforms turns on three separate provisions of the conference report. First, the Federal law "supersedes State law only to the extent that State law applies to an issue covered by the Act." Second, the conference report provides that "punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant if the claimant establishes by clear and convincing evidence that conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action." Third, the conference report provides that the Act "does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages."

Mr. Speaker, the express preservation of State laws that further limit the award of punitive damages was part of the bill approved by the House in March, but it was not part of the amendment passed by the Senate. During the Conference, I led the House conferees in insisting that this provision be included. The conference report adopts the House preemption language—language that makes very clear the preemptive effect of the punitive damage reforms.

Taken together with the other provisions, this provision conclusively demonstrates that the Act would not expand liability for punitive damages, or increase the permissible amount of punitive damages, in any State. If State law imposes substantive or procedural requirements concerning the circumstances under which punitive damages may be awarded that are more stringent than the Federal law, the State law controls. Similarly, if the application of State law limits on the amount of punitive damages results in an award of punitive damages that is less than that permitted under the Federal law, the State law controls.

Let me explain, Mr. Speaker, why this is the only interpretation that is consistent with the plain language of the conference report, as well as the intent of its drafters.

Consider, for example, more stringent State standards for the award of punitive damages. Everyone agrees that the act would not make punitive damages available in States, such as Washington, that do not currently allow the award of punitive damages. In such States, no award of punitive damages is permitted by applicable State law and the punitive damage provisions therefore do not come into play.

Likewise, the act would not lower the standards for awarding punitive damages in States such as Colorado—which requires proof beyond a reasonable doubt—or Maryland—which requires proof of actual malice. If a claimant meets the standard of proof in the Federal law but not the higher standard imposed by State law, no award of punitive damages is permitted by applicable state law. Again, the punitive damage provisions of the Federal statute simply do not apply to cases in which punitive damages would not otherwise be available under State law.

In addition, State laws that impose a higher standard of proof than the Federal act, or that provide for additional substantive requirements, further limit awards of punitive damages and therefore are not preempted by the act, which does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages. Any State law that would make punitive damages unavailable even if the Federal requirements are met, or that would result in an award of punitive damages lower than the Federal limitations, is one that further limits the award of punitive damages. Such laws expressly are not preempted.

It is also important to recognize, Mr. Speaker, that the act would not affect State caps on punitive damages. In most cases, the act would limit punitive damages to the greater of \$250,000 or two times compensatory damages. At the same time, many States have limited punitive damages by providing a maximum dollar amount, a multiplier, or some other statutory limitation on the amount of punitive damages. In many cases, application of these State limitations would result in a lower punitive damage award than would application of the Federal limitations. In such cases, these State laws would remain in effect.

For example, Virginia has enacted an absolute cap of \$350,000 for punitive damages. Illinois limits punitive damages to three times economic damages. Application of these limitations to a punitive damage award results in the maximum amount of punitive damages permitted by applicable State law. Even if the Federal law would allow a higher award of punitive damages,

therefore, the State law limitations would control. By contrast, if the Federal limitations resulted in a lower amount, the Federal limitations would control.

Lest there be any doubt on this subject, the conference report expressly provides that the act “does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages.” This provision can only mean that if application of a State limitation would result in a lower award of punitive damages than the Federal rule, the further limit of the State law controls.

COMMERCIAL LOSS

The conference revisions to H.R. 956 are intended to clarify congressional intent concerning claims for commercial loss. Commercial loss, as defined in section 101(5), means any loss or damage to a product itself, loss relating to a dispute over its value, or consequential economic loss. As further stated in the definition, any claim for any of these three types of loss is to be governed by the Uniform Commercial Code or State law versions of its provisions, or by contract law. This definitional requirement that all actions for commercial loss be governed by commercial or contract law is accompanied by the affirmative mandate in section 102(a)(2) that any civil action brought for commercial loss shall be governed only by applicable commercial or contract law. Congressional intent is to codify the historical approach that tort theories are not applicable to such claims, and may not be employed with respect to them.

The reforms contained in H.R. 956 are aimed predominantly at correcting certain abuses and providing some reasonable uniformity in the tort law of products liability. Claims for commercial loss traditionally do not fall in the tort realm, but are dealt with in accordance with the contractual agreement created by the parties themselves, or by the UCC. This economic loss rule is typified by the opinions of the California supreme court in *Seely versus White Motor Company*, and the U.S. Supreme Court in *East River Steamship Corporation versus Transamerica Delavel*. Despite limited judicial inroads by other courts that have sought inappropriately to engraft tort branches onto the commercial tree, the bill excludes commercial loss from the scope of its tort-related provisions. In so excluding commercial loss, Congress did not seek to carve out a category of loss undeserving of the bill's protections, but rather to recognize that there is a massive, extant body of commercial and contract law historically more suited to such claims. In order to assure that such claims are not subject to tort system abuses that the bill aims to rectify, the conference chose affirmatively to mandate that commercial loss claims be governed exclusively by commercial or contract law. Such a rule of law is necessary to pro-

mote uniformity and predictability, in the interests of interstate commerce and due process. This position is entirely consistent with the House Judiciary Committee report (H. Rept. 104-64), and codifies the common law rule.

This bill does not intend to disrupt or affect application of the economic loss doctrine. Congress fully supports the traditional rule that disputes that essentially involve failed commercial expectations, damage or loss to a product itself, or diminished product value, are not recoverable in tort. Exclusion of commercial loss from the bill is intended to protect the body of extant contract and commercial law, and while assuring that tort or other inappropriate causes of action are not engrafted onto that body of law.

DEFINITION OF PRODUCT

The definition of a product in section 101(14) of the conference agreement is not intended to include improvements to real property. A manufacturer is able to test its product and control quality in a way that is impossible on a construction site where a variety of systems are being coordinated to create a more complex structure. Each construction project is built from an extremely complicated and unique set of drawings and specifications involving interrelated systems and many individual products specified by a design professional and over which the constructor has little control. Forty-seven States have recognized this distinction between a product and an improvement to real property by enacting specific statutes of repose for improvements to real property. It was the intent of the conferees that the definition of product in H.R. 956 honor this distinction.

Mr. Speaker, after nearly two decades of effort to fashion a comprehensive set of product liability reforms, we have crafted a bipartisan consensus package of bottom-up reforms. These reforms are desperately needed to restore some fairness to our present system and to remove roadblocks to our country's economic growth and job creation. I urge my colleagues to join me in supporting the conference report to accompany H.R. 956.

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

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

Mr. CONYERS. Mr. Speaker, this is a continuation of the war on public safety. We have before us a conference measure which would not only cap and limit the amount of damages an injured victim can recover, but would, in instances, completely cut off our consumers' and workers' rights to seek compensation, even in uncontested cases of negligence.

Mr. Speaker, this bill, the conference measure before us, in every conceivable way has been designed to disadvantage American consumers and benefit negligent corporations. The question that hangs over this discussion is why.

Remember, the Conyers amendment to get tough with foreign corporations,

which we voted twice, was dropped in conference, to require the foreign corporations to subject themselves to the discovery and jurisdiction in the U.S. courts as a condition of doing business in this country, just like everybody else. What is wrong with this, and why did the conference committee specifically refute the judgment of the majority of Members, Democratic and Republican, about this provision?

To make matters worse, Mr. Speaker, we are considering the bill at the same time the majority leader of the House, the gentleman from Texas, Mr. ARMEY, is proposing to completely eliminate safety agencies like the Consumer Product Safety Commission, while simultaneously slashing and eliminating safety regulations. Why?

If Members do not think that the threat of private lawsuits can help keep dangerous products off the market, which is what we hope to continue to do in our legal system, just ask the parents of children who have been killed by flammable pajamas, or the women who have been maimed by the Dalkon shield. Both these products are now off the market, thanks to the threat of punitive damages.

Mr. Speaker, this bill will not reduce litigation, but will stack jury awards in favor of those with large incomes or that can afford powerful legal counsel, and it would remove the most important deterrence that stopped dangerous products from coming into our homes and communities. So the bill will not reduce litigation, Mr. Speaker, because, contrary to the myth, product liability suits represent a minute portion of litigation in the United States.

Is there a law student in any school in America that is not aware that product liability suits represent less than 2 percent of the litigation carried on in the U.S. courts? Is there anybody that does not know that? This is not a partisan fact, it is not a factoid: Less than 2 percent of all the suits in the country involve product liability; and also, that product liability premiums are going down.

Punitive damages is also a myth that must be addressed among lawyers and Members of Congress. There are only an average of 14 awards a year in punitive damages. Please, 14 awards a year in punitive damages. When they are awarded, they prevent against deadly dangers in the marketplace, asbestos cases, dangerous intrauterine devices. The cap of \$250,000 on punitive damages is tragic. No Fortune 500 company, or some not even Fortune 500, will be deterred from placing dangerous products on the market because of a quarter of a million dollar threat of punitive damages. It will be factored into the pricing.

Mr. Speaker, I think more and more of us are aware of that, and are going to oppose this measure for those reasons.

Mr. Speaker, in this measure before us, a conference bill, we limit the victim's rights to recover what are known

as noneconomic damages when they are joint tortfeasors. So if a dangerous product induces a loss of reproductive capacity in a housewife, say, she may likely be limited in her recovery where there are joint tortfeasors; but if a corporate executive of some expense is injured by the same product or a different one and loses his large salary, the bill ensures that he will be fully compensated.

Mr. Speaker, I appeal to Members on the sense of fairness, this is a one-way street of Federalism: Return power to the States, as long as it disadvantages consumers and working people.

Finally, do not forget about the special interest favors lurking in the bill. Gun sellers and bar owners have obtained special language limiting their potential liability for careless sales to third parties. Did Members know that was there? It is. Electricity, water, and gas utilities corporations have obtained a provision overruling liability laws in States which hold them strictly liable for utility disasters. Do Members know that is in the bill?

Like ministers, Congressmen can preach through little babies' cries. It does not bother me a bit.

There are other hidden favors. Mothers Against Drunk Drivers are opposed to the bill. Special interests have poured \$26 million into it to see these special things occur. Mr. Speaker, this bill is of special interests, by special interests, and for special interests. The administration has indicated that it will veto it. It is going nowhere, again, so vote against this extremely damaging, discriminatory piece of legislation.

The following is a more detailed description of the final conference report, outlining my concerns with the bill.

Section 1. Short Title and Table of Contents

Sec. 2. Findings and Purposes.—Sets forth a number of findings, most notably that our nation is experiencing a litigation explosion which harms our competitiveness. What the conference report fails to note is that the most recent study by the Bureau of Justice Statistics found that product liability cases represent a mere 1.67 percent of civil cases. And the clear trend of product liability filings as well as damages awarded has been decreasing: according to the National Association of Insurance Commissioners, product liability insurance premiums have dropped more than 28 percent between 1989 and 1994. The incidence of punitive damages in product liability cases is far rarer yet: a study by Professor Michael Rustad, termed by the U.S. Supreme Court as the "most exhaustive study" ever, found an average of only 14 such cases per year from 1965-1990. The conference report also fails to note that the bill will have very little effect on American competitiveness, since the total of all product liability costs represent a mere one cent per five dollar purchase (according to a comprehensive study completed by the Consumer Federation of America). The one provision in the House bill which would have helped U.S. firms compete—by making it easier for American consumers to sue negligent foreign manufacturers on the same terms as American firms—was quietly dropped in conference, even though the Conyers Amendment on this matter passed by a bipartisan vote of 285-166, and the House later approved a motion instructing conferees to retain the provision by a vote of 256-142.

Section 101. Definitions.—The term "product" is defined to include (i) electricity, water and gas utilities which are ordinarily subject to a strict liability in tort, and (ii) human tissue, organs, and blood products (both categories of items which were specifically excluded from the House-passed bill). The utility provision has the effect of granting utilities in 44 States the benefit of the various damage caps and limitations in the bill. No rationale has been proffered for treating utilities in these states more beneficially than others.

Sec. 102. Applicability and Preemption.—The conference report preempts product liability law in all 50 states and the District of Columbia to the extent they are inconsistent with the report. This represents one of the most significant shifts ever in power from the states to the federal government. Despite the fact that 47 states have altered their product liability laws in the last decade, states will no longer be free to promulgate laws which protect their citizens from dangerous and harmful products (although the bill generally does not preempt states from having more restrictive anti-consumer laws). The bill does not apply to limit the product liability rights of businesses suing manufacturers because it includes a "commercial loss" exception. In other words, the bill only applies to limit the rights of workers and individual citizens, not corporations.

Sec. 103. Seller and Lessor Liability.—Provides that a seller or lessor may only be sued for breach of an express warranty, failure to exercise reasonable care, or intentional wrongdoing, unless the court determines the victim would be unable to enforce a judgment against the manufacturer in any state court. This could force victims to bring actions in out-of-state venues against outside manufacturers, rather than being able to bring suit against their in-state seller who could then bring the manufacturer into the action. This section could also have the effect of eliminating a seller's common law liability for failure to warn a consumer about its unsafe characteristics and eliminate the doctrine of implied product warranties by sellers. Although this section does not apply to "negligent entrustment" actions, such as those relating to careless sale of liquor or guns, the provision is drafted in a manner so that such liquor and gun sellers would benefit from the other sections of the bill (e.g., relating to limits on punitive damages and joint and several liability). The definition of "manufacturer" is so narrowly written that the entity who assembled the product may in some instances not be included within its scope (e.g., the assembler used the preexisting design of another party). In such an event there may be no responsible party for the injured victim to sue—the seller is relieved of liability and there is no "manufacturer."

Sec. 104. Defense Based on Claimant's use of Alcohol or Drugs.—Alters the common law rule of contributory negligence (under which a victim's damages are limited to the extent that his or her own negligence contributed to the accident in question) by specifying that it shall be a complete defense to a product liability action if the victim was intoxicated and was more than 50% responsible for the accident. Since the section provides for no exceptions, it can result in a number of unfair results. For example manufacturers of devices designed to protect against using a product while intoxicated—such as breathalyzers now installed on some cars—would appear to be fully immunized from liability.

Sec. 105. Misuse or Alteration.—Defendants may have their liability lessened by the percentage of liability attributable to any alteration or misuse of the product. This would

even apply in cases where a third party (other than an employer) was responsible for the alteration.

Sec. 106. Time Limitations of Liability.—Section 106(a) provides for a nationwide two-year statute of limitations, preempting longer statutes in 25 states and the District of Columbia. Section 106(b) creates a new federal “statute of repose,” barring any product liability action for certain goods not brought within fifteen years of the date of delivery. The statute of repose applies not only to business goods (such as machinery), but to consumer goods (such as bicycles and microwaves) having a life expectancy of three or more years. The statute of repose provision would result in many occasions where a defective product leads to harm that is totally non-compensable. The one-sided nature of the statute of repose provision is highlighted by the fact that it does not preempt state laws providing for a shorter statute of repose.

Sec. 107. Alternative Dispute Resolution Procedures.—Parties are encouraged to pursue alternative dispute resolution under applicable state law, but there are no penalties for parties who refuse to participate.

Sec. 108. Punitive Damages.—Would arbitrarily limit the maximum amount of punitive damages which may be awarded to the greater of two times compensatory damages or \$250,000 (although the judge would have very limited discretion to allow an increased award based on a variety of very narrow extenuating factors). Lawsuits against individuals whose net worth does not exceed \$500,000 and businesses with less than 25 full-time employees would be subject to a reduced punitive damages cap equal to the lesser of \$250,000 or two times compensatory damages. The bill would also limit the award of punitive damages to only those cases where the victim had established by “clear and convincing evidence” that the injury was the “proximate cause” of conduct specifically intended to cause harm manifesting a “conscious, flagrant indifference to the rights and safety of others.” Finally, the section would permit any party to request a separate proceeding to determine whether punitive damages should be awarded and the extent of such damages. Again, the punitive damages cap is written so it only preempts states with no punitive damage caps or higher caps, it does not preempt states with lower caps. (This could create confusion to the extent a state’s cap is more lenient in some respects, and more restrictive in other respects than the federal standard.)

These changes would in large part eliminate the role of punitive damages in the product liability system, thereby reducing the system’s overall deterrent effect. For a civil case, these proposed evidentiary and substantive standards come close to “criminalizing” tort law for purposes of punitive damages: in other words, an injured victim would almost have to show that a manufacturer acted with “criminal intent”—and not gross negligence. Moreover, the legislation creates a standard of “conscious indifference” which appears to be so narrow as to be mutually exclusive. Permitting parties to bifurcate proceedings concerning the award of punitive damages will lead to far more costly and time consuming proceedings, generally working to the disadvantage of harmed victims. The proposed caps largely eliminate incentives for manufacturers to remove life-threatening products from the market place, and instead allow defendants to substitute “cost-benefit” analyses based on the estimated value of lives. The exception for “small businesses” would insulate more than 2/3 of American businesses from significant punitive damages (according to Census Bureau data), and create perverse

new incentives to avoid expanding employment opportunities. The “additur” procedure allowing the court to increase punitive damages above the statutory cap may well be held to be an unconstitutional violation of the defendant’s right to a jury trial in federal court. See *Dimick v. Schiedt*, 293 U.S. 474 (1935).

Sec. 109. Liability for Certain Claims Related to Death.—This incorporates provisions from the Senate bill so that the punitive damages cap does not apply to a particular action brought in Alabama.

Sec. 110. Joint and Several Liability.—Would supersede traditional state common law by eliminating joint and several liability for non-economic damages, such as pain and suffering. (The justification for the common law rule is that it is better that a wrongdoer who can afford to do so pay more than its share, rather than an innocent victim obtain less than full recovery; also, a defendant who pays more than its share of damages can seek contribution from the other defendants.) The provision has the effect of discriminating against groups less likely to be able to establish significant economic damages, such as women, minorities, seniors and the poor. Moreover, the elimination of joint and several liability would actually increase courts’ caseloads and increase litigation costs, by discouraging settlements and requiring injured consumers to initiate multiple claims.

Sec. 111. Workers Compensation Subrogation.—In addition to codifying certain state laws permitting employers to seek subrogation from their employees, this provision allows a responsible manufacturer to seek contribution from a negligent employer up to the amount of workers compensation benefits paid by the employer. (The provision also provides for reimbursement of the employer’s legal fees by the manufacturer if the employer is wrongfully brought into an action.) Legal aspects of workers compensation are new issues that the House has never considered or debated before.

Title II—Limitation on Liability relating to Medical Implants.—Suppliers of raw material and component parts used to assemble medical implants (such as breast implants) would only be liable under State law if a victim establishes the supplier failed to meet the contract requirements or specifications for the implant. The bill also specifies new rules for bringing suits against biomaterials manufacturers and sellers, provides for an expedited removal procedure for the biomaterials suits and provides for reimbursement of the defendant’s legal fees if the victim’s claim against it is found to be meritless. (No reimbursement mechanism is provided for the victim if the suit is successful, however.)

Title III—Limits on Application; Effective Date.—Specifies that federal appellate court decisions supersede other court interpretations and the Act applies to lawsuits brought after the date of enactment.

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

Mr. BLILEY. Mr. Speaker, I yield myself 3 minutes.

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

Mr. BLILEY. Mr. Speaker, I rise in support of the conference report on H.R. 956, the Commonsense Product Liability and Legal Reform Act of 1995. This is a projobs, procompetitiveness bill that will help to bring fairness and accountability back into our legal system.

Almost two decades ago, the Commerce Committee began a bipartisan

effort to reform our product liability laws. Over the years, we have held dozens of hearings, receiving written and oral testimony from hundreds of witnesses. Early last year, the committee reported legislation which is incorporated into the conference report before us now. And today, as part of the Contract with America, and with the leadership of the distinguished chairman of the Judiciary Committee, we stand ready to put some historic changes into place.

I regret that the conference report falls somewhat short of the reforms included in our earlier House bill, which passed the House by a wide, bipartisan margin. Nonetheless, the conference report contains a number of reforms which the Commerce Committee has worked on, and which will clearly help to relieve the burden of excessive litigation.

For example, the conference report still contains critical protections for biomaterials suppliers developed in our committee to ensure that consumers will have continued access to lifesaving and lifeenhancing medical devices. It also still contains provisions for reasonableness and balance in product liability punitive damage awards, and sets forth enumerated guidelines which should be considered before such awards are made. In addition, it includes important exceptions for environmental claims, and allows for reasonable limits on the life expectancy for products in the workplace.

These reforms are essential to the long-term competitiveness of the American economy, as we established in our work in the Commerce Committee over the past number of years.

Mr. Speaker, I include for the RECORD, relevant portions of the Commerce’s Committee’s report on H.R. 917, legislation which was incorporated in significant part into H.R. 956, the bill before us today.

EXCERPTS FROM HOUSE REPORT 104-63, PART 1

BACKGROUND AND NEED FOR LEGISLATION

For two decades, the Committee on Commerce has grappled with the issue of product liability reform. After developing an extensive record on the subject of product liability law, the Committee has concluded that the present system places an enormous burden on interstate commerce, inflates prices, stifles innovation, and subjects manufacturers and sellers to a capricious lottery where sanctions can exceed any found in criminal law. In light of these facts, Congressional action is long overdue.

Historically, injury caused by a defective product gave rise to a tort action in State courts. As transportation and communications systems developed, more products crossed State boundaries, increasing the volume of interstate commerce exponentially, creating more interstate product liability. From 1973 to 1988, product liability suits in Federal courts increased 1000%; in State courts the increase was between 300% and 500%. Meanwhile, tort doctrine in State courts evolved from fault-based standards to strict liability for manufacturers and sellers.

Tort costs have risen significantly as well, reaching an estimated \$132 billion in 1991. (Tillinghast. (1992) tort Cost Trends: An International Perspective. New York:

Tillinghast.) Products manufactured in one State are now sold in another and cause injury in yet others. Because each State has different rules governing recovery in tort, forum shopping is encouraged, common law is developed unevenly, and manufacturers are found liable for conduct in one State that would fail to give rise to a cause of action in another.

American manufacturers and sellers have found that, given the multiplicity of evidentiary standards in State tort law, products may be found defective even after full compliance with all applicable regulations. The vast majority of product liability cases are filed in State courts. This leaves manufacturers and sellers without the benefit of uniform standards on which to base conduct in the design, manufacture and sale of goods. Manufacturers are told that their products must be "safe," without being told what constitutes safety.

In many jurisdictions, liability on the part of a manufacturer for economic and punitive damages is found in the absence of negligence or malice. The doctrine of joint and several liability often compels a defendant to pay damages far in excess of his proportionate responsibility for the injury, and the plaintiff's Bar has become remarkably skilled at identifying and joining defendants with deep pockets who, despite limited responsibility for injury, would rather settle a case than face the costs and publicity associated with litigation.

Because over 70% of products manufactured in any one State cross State borders before the point of final sale, American manufacturers must contend with the uncertainty created by 51 different product liability jurisdictions in their own domestic market. The result is a de facto "liability tax" which chills interstate commerce and deprives consumers of product choice available to consumers in other nations throughout the world. Unfortunately, instead of encouraging the development of safer products, the present system often forces manufacturers to increase product prices or withdraw products from the market altogether. According to surveys reported to the committee by Pace University Professor of Law M. Stuart Madden, because of liability costs, 36% of American manufacturers have withdrawn products from the world market, 47% have withdrawn products from the domestic market, 39% have decided not to introduce new products, and 25% have discontinued new product research.

The case of Bendectin is illustrative: Bendectin is the only prescription drug in the United States ever approved for combating nausea and vomiting in pregnancy. Introduced in 1956, the drug was used in over 30 million pregnancies. In 1969, allegations that Bendectin could cause birth defects appeared in some scientific journals. Despite the fact that no causal relationship between Bendectin and birth defects was ever established (the Food and Drug Administration affirmed the drug's safety), nearly 1,700 product liability suits were brought against the manufacturer.

Almost all cases that went to court were decided in favor of the manufacturer, yet annual revenues from the sale of the drug barely exceeded legal fees and insurance premiums. The manufacturer voluntarily withdrew Bendectin from the market in 1983. While the rate of birth defects has not declined since Bendectin was withdrawn, the cost in the U.S. for treatment of severe nausea during pregnancy is now nearly \$40 million per year.

Another example comes from the sporting goods industry. In a 1988 *Forbes* magazine article, author Peter Huber noted that product liability legal fees and insurance premiums

accounted for 55% of the price of a football helmet. (Peter Huber. (Oct. 1988) *Forbes* "The Litigation Scandal.") In 1988, Rawlings Sporting Goods announced that it would no longer manufacture, distribute, or sell football helmets. Rawlings was the 18th company in 18 years to abandon the football helmet business due to liability exposure, joining Spaulding, MacGregor, Medalist, Hutch, and other manufacturers. As one commentator observed:

"This situation is not what the crafters of product liability law intended. Product liability law was created to improve product safety and compensate victims of unsafe products. It was not meant to penalize conscientious companies that provide products and services vital to the U.S. economy."

(Frederick B. Sontag. (1994) *Product Liability and Innovation*. "Indirect Effects of Product Liability on a Corporation." National Academy of Engineering.)

In addition to driving products from the marketplace, raising prices, and draining capital, the patchwork of liability standards throughout the nation severely inhibits the competitiveness of U.S. industry. While it is true that a foreign company doing business in the United States is subject to the same liability laws as a U.S. company, most U.S. companies have had products in the marketplace for longer than their foreign competitors.

Since many states have no statute of repose, products which have been in use for 15 or more years can still expose a manufacturer to liability. The costs of insuring against product liability and legal fees spent in liability lawsuits are built into the cost of such products, creating a price disadvantage for domestic producers facing well financed foreign competition with far less liability exposure.

American industry's chief foreign competitors face no such handicap in their domestic markets. Both the European Community (EC) and Japan have uniform product liability regulations. The EC Directive establishing product liability standards was published in 1985, and differs significantly from product liability law in the United States in the following ways: first, a single definition of product "defect" applies; second, if a product complies with mandatory regulations issued by public authorities, the manufacturer has no liability exposure; third, noneconomic damages (pain and suffering) are limited; fourth, punitive damages are generally not allowed; fifth, most EC countries limit liability to known technical knowledge; and sixth, a 10-year statute of repose begins when the manufacturer puts a product into the stream of commerce. Operating under the provisions of this Directive, European manufacturers and sellers pay, on average, twenty times less for liability coverage than their American competitors.

The status quo also retards the ability of American firms to create jobs. A memorandum dated November 30, 1990, from the Office of Vice President Quayle to Members of Congressional Committees considering product liability reform legislation states that 40% of chief executive said product liability has had a major impact on their business; 36% stopped some manufacturing as a result; 15% laid off workers, and 8% closed plants. Almost 90% of American companies will be defendants in a product liability claim at least once according to a 1988 Rand Institute study. In the study, of 19,500 companies surveyed, 17,000 were lead defendants in at least one product liability suit.

In summarizing the background and need for H.R. 917, the Committee finds itself in agreement with the observations of Francois Castaing:

"It is well understood that product liability laws have a purpose. They are supposed to compensate for injury, promote safety, and penalize gross negligence. If a corporation is irresponsible, it should be held accountable. But in the United States, the situation has gone beyond punishing gross negligence. Now punishment is meted out for many risks that simply cannot be avoided when a product is produced and sold to a public that has wide discretion in how it chooses to use that product. When no distinctions are made in assigning responsibility for risk and companies are held responsible (and penalized) for all risk—from those attributable to the vagaries of human nature to those truly within a company's aegis—the ability to innovate, engineer, and compete is compromised."

Francois J. Castaing. (1994) *Product Liability and Innovation*. "Automotive Engineering and Product Liability," National Academy of Engineering.

The present product liability system in the United States unfairly denies consumers the right of free choice in the marketplace and inflates prices for available products. For manufacturers and sellers, the system discourages innovation, retards capital formation, and creates a distinct competitive disadvantage in the world market.

The Committee has developed an extensive record on the negative impact of product liability on commerce in the United States, and has concluded that Congressional action is long overdue. Support for product liability reform within the Commerce Committee has always been bipartisan, and legislation has been reported from the Committee to the House under both Republican and Democratic Chairmen.

HEARINGS

During the 104th Congress, the Subcommittee on Commerce, Trade, and Hazardous Materials held one day of hearings on H.R. 917, the Common Sense Product Liability Reform Act, and related legislation, including section 103 of H.R. 10, the Common Sense Legal Reform Act. Additionally, since the 99th Congress, the Committee has held 12 days of hearings on the subject of product liability reform and that record contributed significantly to the Committee's consideration of H.R. 917.

On February 21, 1995, the Subcommittee on Commerce, Trade, and Hazardous Materials held a hearing on H.R. 917, the Common Sense Product Liability Reform Act and Related legislation. Testimony was received from Mr. Paul R. Huard, Senior Vice President, National Association of Manufacturers; Mr. Larry S. Stewart, President, Association of Trial Lawyers of America; Mr. Victor E. Schwartz, Esq., General Counsel, Product Liability Coordinating Committee; Mr. Daniel E. Richardson, Administrator, Latta Road Nursing Home, (testifying on behalf of the National Federation of Independent Business); Mr. Jeffery J. Teitz, Executive Committee, Vice-Chair, Assembly on Federal Issues of the National Conference of State Legislators; and Mr. James A. Anderson, Jr., Vice President of Government Relations, National Association of Wholesaler-Distributors.

During the 103rd Congress, the Subcommittee on Commerce, Consumer Protection and Competitiveness held three days of hearings on H.R. 910, the Fairness in Product Liability Act, whose language is closely tracked by H.R. 917. The first hearing was held on February 2, 1994 and focused on the impact of product liability reform on the health care industry. The Subcommittee received testimony from Ms. Stephanie Kanarek; Mr. Ted R. Mannen, Executive Vice-President, Health Industry Manufacturers Association; Mr.

Calvin A. Campbell, Jr., President and CEO, Goodman Equipment Corporation (testifying on behalf of the American Mining Congress); Ms. Lucinda Finley, Professor, State University of New York at Buffalo Law School; Mr. Victor E. Schwartz, Esq., General Counsel, Product Liability Coordinating Committee; and Mr. Bruce Finzen, Robins, Kaplan, Miller & Ciresi.

The second hearing sought a broad spectrum of opinion on the bill from consumers, manufacturers, and academics and was held on April 21, 1994. The Subcommittee received testimony from Mr. Marcus Griffith, President, The Hairlox Company (testifying on behalf of the National Association of Manufacturers); Ms. Dianne Weaver, Weaver, Weaver & Lipton; Ms. Norma Wallis, President, Livernois Engineering (testifying on behalf of the Association of Manufacturing Technology); Mr. Robert Creamer, Executive Director, Illinois Public Action; Professor Stuart Madden, Pace University School of Law; and Professor Andrew Popper, Deputy Dean, Washington College of Law, The American University.

The Subcommittee received testimony from victims of defective products and other interested parties on May 3, 1994, from Janey and Lawrence Fair; Amy Goldrich for Sybil Goldrich, Command Trust Network; Charles Ruhi (accompanied by Don Singer, Attorney); James L. Martin, Director, State & Federal Affairs, National Governors Association; Emmett W. McCarthy, Dreis and Krump Manufacturing Company; James Oliphant, President, Defense Research Institute; Liberty Magarian (testifying on behalf of the Product Liability Coordinating Committee); and Larry R. Rogers, Power, Rogers, & Smith.

In the 100th Congress, the Subcommittee on Commerce, Consumer Protection, and Competitiveness held seven hearings on Federal product liability reform covering punitive damages reform, joint and several liability, workplace safety, the impact of product liability reform on the general aviation industry, state-of-the-art and government standards defenses, the effect of product liability reform on the affordability and availability of product liability insurance, and the issue of product liability reform in general.

Witnesses included: Representatives Jim Slattery and Al Swift; the Honorable Malcolm Baldrige, Secretary of Commerce; The Honorable Harry L. Carrico, Chief Justice, Supreme Court of Virginia; Mr. Robert H. Mallot, Chairman and CEO, FMC Corporation; Mr. Victor E. Schwartz, Esq., Crowell & Moring; Mr. John B. Curico, Chairman, President, and CEO, Mack Trucks, Inc.; Mr. Marcus M. Griffith, Hairlox Company; Mr. Joseph Goffman, Public Citizen; Ms. Pamela Gilbert, United States Public Interest Research Group; Mr. Gene Kimmelman, Legislative Director, Consumer Federation of America; Robert L. Habush, President, Association of Trial Lawyers of America; Mr. John T. Subak, Action Commission to Improve the Tort Liability System, American Bar Association; Mr. Stephen Daniels, Project Director, Punitive Damage Project, American Bar Foundation; Professor David G. Owen, University of South Carolina School of Law; Mr. Malcolm Wheeler, Esq., Skadden, Arps, Slate, Meagher & Flom; Mr. Bill Wagner, Esq., Wagner, Cunningham; Mr. George S. Frazza Esq., General Counsel, Johnson and Johnson Products, Inc.; Professor David Randolph Smith, Vanderbilt University School of Law; Professor Aaron Twerski, Brooklyn Law School; Senator Robert Frey, National Conference of State Legislators; Mr. Alfred W. Cortese, Jr., Esq., Kirkland & Ellis (representing Lawyers for Civil Justice); Mr. Robert Martin, Esq., Mar-

tin, Pringle, Oliver, Tripplett & Wallace (representing Beech Aircraft Corporation); Mr. Charles T. Hvass, Jr.; Mr. Frederick B. Sontag, President, Unison Industries; Mr. C.O. Miller, Safety Systems, Inc.; Mr. John S. Yodice, Esq., General Counsel, Aircraft Owners and Pilots Association; Mr. Jonathan Howe, President, National Business Aircraft Association; Mr. David M. Silberman, Associate General Counsel, AFL-CIO; Mr. John Mottley III, Director of Federal Government Relations, National Federation of Independent Business; Mr. Richard Duffy Director, Department of Occupational Health and Safety, International Association of Firefighters (accompanied by Cheryl Gannon, Legislative Assistant); Mr. Kent Martin, Chairman of Government Affairs Committee, National Printing Equipment and Supply Association (accompanied by Mr. Mark J. Nuzzaco, NPES Government Affairs Director); Mr. James A. Mack, Public Affairs Director, National Machine Tool Builders Association; Mr. Jonathan Reynolds, Esq., Cosco, Inc.; Mr. Clarence Ditlow, Executive Director, Center for Auto Safety; Mr. Geoffrey R.W. Smith, Esq., McCutchen, Doyle, Brown, and Enerson; Dr. Sidney Wolfe, Health Research Group; Mr. R. David Pittle, Technical Director, Consumers Union; Professor Nicolas A. Ashford, Associate Professor of Technology and Policy, Massachusetts Institute of Technology; Mr. Howard M. Acosta, Esq., Rahdert, Acosta, and Dickson, P.A.; Professor Jerry Phillips, University of Tennessee School of Law; Richard A. Bowman, Esq., Bowman and Brook; Mr. Frank S. Swain, Chief Counsel for Advocacy, United States Small Business Administration; Professor Joseph A. Page, Georgetown University Law Center; Mr. Edward H. Southton, Deputy Commissioner for Company Supervision, Office of the Insurance Commissioner; Ms. Linda Matson, State Director, National Federation of Independent Business (accompanied by Ms. Mary Jane Norville, National Federal of Independent Business); Ms. Jean Stinson, Vice President, R.W. Summers Railroad Contractor, Inc.; Ms. Debra Ballen, Vice President for Policy Development and Research, American Insurance Association; and Mr. Thomas A. O'Day, Associate Vice President, Alliance of American Insurers (accompanied by Mavis A. Walters, Senior Vice President, Insurance Services Office).

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title; Table of Contents.

This section provides the title of the Act and a table of contents.

Section 2. Preemption.

This section establishes the scope of the Common Sense Product Liability Reform Act, governing any product liability action in any State or Federal court brought against a manufacturer or product seller, on any theory, for harm caused by a product. It does not include actions for commercial loss. State law is only superseded to the extent that State law applies to the same issue. The Act does not affect the sovereign immunity of the States, choice-of-law rules, venue, or environmental laws.

Section 3. Product Seller Liability.

This section sets forth the standard of liability for product sellers. A product seller is only liable for harm caused by its product where (1) the claimant establishes that the product was sold by the seller, that the seller failed to exercise reasonable care regarding the product, and that such failure was a proximate cause of the claimant's harm; (2) the seller made an independent express warranty, the product failed to conform to the warranty, and such failure caused the claimant's harm; or (3) the seller was engaged in

intentional wrongdoing as determined under State law, and such wrongdoing was the proximate cause of the claimant's harm. Sellers are not required to inspect a product where there is no reasonable opportunity to inspect such product in a manner which would reasonably have revealed the aspect of the product which caused the claimant's harm. A seller would become liable, however, by stepping into the shoes of the manufacturer if the State where the action is filed would not be able to serve process against the manufacturer, or if the State determines that the claimant would be unable to enforce a judgment against the manufacturer.

Section 4. Alcohol and Drug Defense.

This section provides a defense to a liability action where a claimant is more than 50% responsible for the accident causing harm as a result of being under the influence of intoxicating alcohol or illegal drug. The determination of intoxication or whether the claimant is under the influence of alcohol or drugs shall be made according to the relevant State law. Illegal drugs include any controlled substances according to federal law.

Section 5. Misuse or Alteration.

This section allows a manufacturer or product seller to establish that a percentage of a claimant's harm was proximately caused by the misuse or alteration of a product in violation of an express warning or instructions, or by the misuse or alteration of a product involving a risk of harm which would be known by the typical consumer. The award of damages against the manufacturer or product seller would be reduced by such percentage of claimant's misuse or alteration. The manufacturer's or product seller's liability shall not, however, be reduced by the percentage of responsibility for the harm attributable to the misuse or alteration of a product by the claimant's employer or coemployees who are immune from suit by the claimant pursuant to State law applicable to workplace injuries. These provisions only supersede State law to the extent that State laws are inconsistent.

Section 6. Statute of Repose.

This section bars liability for a product liability action unless the complaint is served and filed within 15 years of the time of first retail purchase. This bar will only apply, however, if the claimant is eligible for workers' compensation for the harm, if the harm did not cause a chronic illness, and if the manufacturer or seller did not include an express written warranty as to the useful safe life of the product which was longer than 15 years.

Section 7. Punitive Damages.

This section provides that where states allow punitive damages, such damages may be awarded where a claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by the product. The punitive damages awarded shall not exceed the greater of \$250,000 or three times the economic injury.

A failure to exercise reasonable care in selecting among alternative product designs or warnings shall not by itself constitute conduct meriting punitive damages, and punitive damages may not be awarded unless compensatory damages have been awarded which are not merely nominal damages. A defendant may request a separate proceeding to determine an award of punitive damages, in which case evidence related only to the claim of punitive damages shall not be admissible in the proceedings to determine compensatory damages.

The trier of fact shall consider all relevant evidence in determining a punitive damage

award, including the severity of harm, the duration, concealment, or profitability of the defendant's conduct, the number of products sold by the defendant which can cause such harm, previous punitive awards to similar claimants, prospective compensatory awards to other claimants, the criminal or civil penalties imposed on the defendant for the complained of conduct, and whether any of the foregoing have been presented in a prior proceeding involving the defendant.

Punitive damages shall not be awarded against a manufacturer or seller of a drug or device which caused the claimant's harm where such product was preapproved by the Food and Drug Administration (FDA) with respect to its formulation, performance, or adequacy of packaging or labeling, or where it is generally recognized as safe and effective pursuant to conditions established by the FDA. This bar on punitive damages shall not apply where the defendant, before or after FDA approval, intentionally and wrongfully withheld from or misrepresented to the FDA information which is required to be submitted concerning the drug or device, or if any illegal payment to FDA employees were made for the purpose of securing or maintaining drug or device approval.

The manufacturer and seller of a drug shall not be held liable for punitive damages for a product liability action for harm relating to the adequacy of the drug packaging or labeling, where the drug is required to have tamper-resistance packaging (and labeling) under regulations of the Secretary of Health and Human Services, unless the claimant establishes by clear and convincing evidence that the drug product is substantially out of compliance with such regulations.

Section 8. Several Liability for Noneconomic Damages.

This section provides that joint liability for noneconomic damages shall not be recognized. A separate judgment shall be rendered against each defendant for their several liability for noneconomic damages, which shall be in direct proportion to their individual percentage of responsibility for the claimant's harm, as determined by the trier of fact.

Section 9. Federal Cause of Action Precluded.

This section precludes any new Federal cause of action pursuant to a Federal question or Act Congress regulating commerce. It is intended to ensure that no additional jurisdiction is granted under this Act to the Federal courts.

Section 10. Frivolous Pleadings.

This section provides that the signing or verification of a pleading in a product liability action shall be considered a certification that to the signor's or verifor's best knowledge, information, and belief, formed after reasonable inquiry, the pleading is not frivolous. A pleading is defined as frivolous if the pleading is groundless and brought in bad faith or for the purpose of harassment or other improper purpose such as to cause unnecessary delay or needless increase in the cost of litigation. Groundless is defined as having no basis in fact or unwarranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

Within 60 days after a pleading in a product action is filed, a party may petition the court to determine the pleading is frivolous. In making this determination, the court shall consider the multiplicity of parties, the complexity of the claims and defenses, the length of time available to the party to investigate and conduct discovery, and the affidavits, depositions, and other relevant matters. If the court determines that a pleading is indeed frivolous, the court shall impose an

appropriate sanction on the signatory or verifier of the pleading, which may include the striking of the offending portion or the entire pleading, the dismissal of a party, or an order to pay the reasonable expenses of an opposition party incurred because of the filing of the pleading, including costs, fees of attorneys, witnesses and experts, and deposition expenses. A general denial and the amount requested for damages shall not constitute a frivolous pleading.

Section 11. Liability of Biomaterials Suppliers.

This section provides that a biomaterials supplier is liable for harm caused by a medical device only if the claimant establishes that the biomaterials supplier's failure to meet contract specifications as set forth below was an actual and proximate cause of harm to the plaintiff. The biomaterials supplier is deemed to have failed to meet contract specifications if the raw materials or component parts delivered by the biomaterials supplier did not constitute the product described in the contract between the biomaterials supplier and purchaser, or they fail to meet any specifications that were provided to the biomaterials supplier and not expressly repudiated prior to acceptance of delivery of the supplies, or that were provided to the biomaterials supplier or to the manufacturer by the biomaterials supplier, or which are contained in a master file submitted by the biomaterials supplier to the Secretary of Health and Human Services (HHS) that is currently maintained by the biomaterials supplier for the purposes of premarket approval of medical devices, or specifications that were included in the submissions of the purposes of premarket approval or review by the Secretary of HHS and which have received such clearance and were not expressly repudiated by the biomaterials supplier prior to acceptance.

Section 12. Definitions.

This section provides definitions for the following terms: "biomaterials supplier," "claimant," "commercial loss," "harm," "manufacturer," "product," "product liability action," "product seller," and "State."

Section 13. Effective Date.

This section provides that the Act shall apply to actions which are commenced after the date of its enactment.

Mr. Speaker, I believe this information will help to establish the need for a number of the reforms contained in the pending conference report.

Mr. Speaker, we need commonsense legal reform that will put more power into the hands of the American people to make their own consumer choices, and bring some sanity back to our legal system. We need reforms that recognize responsible behavior, and put an end to the legal jackpot mentality. We need commonsense legal reforms today.

I urge support of this bill.

□ 1215

Mr. DINGELL. Mr. Speaker, I yield myself 4 minutes.

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

Mr. DINGELL. Mr. Speaker, I will vote for the conference report today for three reasons. The first is that the context is relatively balanced and sound. The second, it is consistent with similar legislation which I have supported over the years. Third, it represents a

complete and utter repudiation of the extremist Republican agenda, which included tacking on to the original House bill a host of special interest amendments stripping average Americans of the traditional legal rights for the benefits of the wealthy and the powerful few.

I take some measure of pride, Mr. Speaker, in having launched the original product liability reform movement in the Congress back in the late 1970's. So it is as one who is no John-Dingell-come-lately to this issue. I am pleased today for those people in America's manufacturing community who have worked with me for many years on this issue. I particularly want to single out one individual for special thanks, Dr. Victor Schwarz, an attorney, professor, casebook editor, and nationally renowned expert on tort law who, for nearly 20 years has helped guide this movement and its supporters in the Congress with sound advice, good judgment, and personal integrity.

But I have trouble mustering any great enthusiasm for today's events. The reason is simple. The process leading up to our having this legislation on the floor today has been an utter disgrace. The conference on this bill was a complete sham. At the one and only meeting which the conferees held in December, we were told that the conference would be open and bipartisan. Nothing was further from the truth. Instead, precisely the opposite occurred. The House Republicans proceeded to cut a secret deal in closed meetings with no participation by anybody else. There was no discussion, no consultation, and no conference meeting after that time.

Our staffs were presented with the final conference report on a take-it-or-leave-it basis late one evening after the Members had gone home. We were not even given the courtesy of being able to review the documents overnight. This is apparently the Republican definition of open and bipartisan. It may be open and bipartisan on the other side of the aisle, but it is not open and bipartisan, nor is it a process which follows the traditions of this House or which takes into consideration the concerns of the American people that the matters of this Congress should be done in an open and honorable fashion.

The House Republicans not only excluded Democratic conferees from all discussions and decisions, but they ignored the will of the House on one very important issue. Last year the House voted to include a provision ensuring that foreign companies that sell defective products to American consumers are treated the same way as American corporations. That amendment was adopted under the leadership of the distinguished gentleman from Michigan [Mr. CONYERS]. The House recently reaffirmed that commonsense position by voting to instruct the House conferees to insist on this provision in the conference. Despite two overwhelming and bipartisan votes, I note, the Republican conferees dropped the provision

entirely. To my knowledge, the Republican Members never even raised this issue in the secret backroom discussions on this legislation.

I note that all eight House Republican conferees voted against the original amendment on the motion to instruct. Those few Members are entitled to their views, but those views get preferential treatment to foreign corporations to the disadvantages of American corporations. But that should not empower them to so brazenly disregard the expressed will of the House, the expressed will of the American people as clearly expressed by this House. The Republicans say they want to reduce Federal power, yet last year they were busy sticking the Federal snout into dog bite cases, accidents, and slip and fall disputes.

The bill that passed last year as a part of the contract on America amounted to a wish list of all manner of scoundrels and wrongdoers. That legislation protected drunk drivers, sexual predators, scoundrels, and others who prey upon the weak, defenseless, and infirm, and those who intentionally inflict great harm and damage. They treated cases involving intentional and gross misconduct as though they were simple negligence cases.

Fortunately, they are not going to get their way. I do not believe that the Republican leadership ever wanted enactment of this bill as public law. If they did, they would not have allowed it to languish for the best part of a year before even asking for a conference. If they did, they would not have included in the process a system which systematically excluded House Democrats like me who have for years supported product liability reform, and they would not have conducted the overall matter in the way in which they did. Instead, this will get what they really want, not a law, but a campaign issue.

We have reached the bottom of the barrel when for pure partisan games, Republicans will not let Democrats who agree with them work with them or participate in the legislative process. Once again, we have seen, as it has happened so many times in this Republican Congress, the constituents who need real action are getting just promises and press conferences and not real action. They will be the losers.

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

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

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

I stand here today to plead for a special interest, I say to the gentleman from Michigan, who so quickly criticizes every manner and means of special interest. The special interest for which I make a plea are some 8 million Americans who this day contain in

their bodies medical devices that have been implanted, which have saved their lives in many cases, and the supplies for which are being threatened by the massive lawsuits that have caused the suppliers of raw materials to withhold those materials from future medical devices, like heart transplants, brain shunts, heart valves, knee replacements, hip replacements.

That is a special interest, I say to the gentleman from Michigan, where we ought to be doing everything we can to make sure that those consumers who need replacements, who need heart valves, who need all of these medical devices for the sake of their health and their lives, we ought to give them the opportunity to have future medical devices available, access to them. And what title II does, of this piece of legislation, is to release a little bit of the raw material suppliers from that type of massive liability that makes no sense, that keeps them from supplying these raw materials to the manufacturers of these lifesaving medical devices.

When are we going to try to understand that special interests sometimes are those people who are victims of heart attacks, victims of disease that we can help if we simply relax a little bit on the restrictions on liability that some of the suppliers of these raw materials have to face.

I say it is time for us to encourage the President not to veto heart transplants, not to veto brain shunts, not to veto hip replacements, but rather to sign the bill into law that will acquire for the American people a balance and allow them to have access to all sorts of new and wonderful lifesaving medical devices.

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds to remind my friend from Pennsylvania, Mr. GEKAS, that title II of the products liability conference report would prohibit most women from recovering any damages from the supplier of silicone gel, despite evidence that the supplier misled women and many of their doctors about the safety of that product. It would also prohibit suits against suppliers of biomaterials used in the manufacture of medical implants.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. SCOTT], a distinguished member of the Committee on the Judiciary.

Mr. SCOTT, Mr. Speaker, there is no explosion in punitive damage products cases. This chart shows the total number of civil cases that are filed, now many are products liability cases. The products liability cases get decided by trial, and then when you get down to punitive damage awards in liability cases, it is in the millions; 391 million of the cases filed are punitive damage cases involving products.

Mr. Speaker, one study in 1995 of cases decided in 1992 could only find three punitive damage cases in the entire United States.

This bill is not balanced. It helps corporate wrongdoings at the expense of

innocent victims. One is the limitation on punitive damages. Although they are rare, they have a deterrent effect. Those pajamas that the ranking member pointed out, for 3 cents per set of pajamas, they could have made them inflammable pajamas, and yet they wanted to make that extra 3 cents for every set of pajamas. It is only the punitive damages that took them off the market.

Mr. Speaker, another benefit for wrongdoers is the issue of joint and several liability. Most States allow the wrongdoers to figure out who has to pay the total damages. This bill forces the innocent victim to chase all the insolvent, out of town, and uncooperative defendants in order to get their full cooperation.

Another little benefit for the corporate wrongdoers is that only overturned State laws can benefit the consumers. The State laws are free to provide additional protection for the corporate wrongdoers, but not allowed to provide any more protection for the consumers.

Mr. Speaker, this hurts the consumer, it helps the corporate wrongdoers, it eliminates the deterrent effect, it benefits the wrongdoers and forces the plaintiff to chase around for the defendants, and I think we should defeat this bill and keep the State laws as they are today.

□ 1230

Mr. BLILEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. STEARNS], a member of the committee.

Mr. STEARNS. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, I also rise in support of the conference report, and I was very glad to hear that the gentleman from Michigan [Mr. DINGELL], who is the former chairman of the Committee on Commerce, supports the bill. Also I want to recognize Victor Schwarz for all his long-term work on this project.

For almost two decades, Congress has been struggling to interject common sense into our product liability laws. I want to commend the conferees for their success in bringing balance and reasonableness to our legal system. Everyone has heard justice delayed is justice denied. Well, this legislation ensures legitimate plaintiffs finally have their day in court by ending the frivolous lawsuits that needlessly tie up our judicial system.

Mr. Speaker, these lawsuits have effectively prohibited individuals from pursuing legitimate grievances through the judicial system due to the fact that the dockets are overcrowded with meritless lawsuits. There are studies that indicate that fully half of the costs of our tort system are consumed in legal fees and expenses, while only one quarter goes to compensate actual economic losses. Attorneys are primarily the ones benefiting under the current system. This legislation encourages settlements out of court, thereby getting lawyers out of the way.

I urge all of my colleagues to support this conference report that emphasizes fairness and individual accountability while maintaining an injured party's fundamental right to restitution.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. DOGGETT].

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

In this very serious and weighty debate, I cannot help but be a little amused that some of the same forces that come here and complain about the litigation explosion, about how our courts are too crowded are the same folks that I read about this week in USA Today who are going around the country making it against the law to speak ill of vegetables. Yes, if you had mouth brussels sprouts, the USA Today reports, it could cost you, if you are opposed to onions, if you diss a kiwi. Now in 12 States, it is against the law to do that and you can be hauled into court.

So the same folks that come here and say there are too many lawsuits in our courts are going around the country, in fact they are trying to do it this week in Maryland, enacting laws to get us in trouble for speaking ill of vegetables. But if they turn us into a vegetable because of their disregard for safety and health in this country, then our rights will be limited.

Mr. Speaker, this is not about the litigation explosion, it is about limiting the rights of individuals whose health and safety is affected. What about the effect on cost and on jobs that we have heard so much about? Well, the folks that put out Consumer Reports, that is the magazine that a lot of us turn to when we have got to buy a refrigerator or television or some kind of service and we want to find out what the most cost effective alternative is, they report that over 30 million Americans each year are injured by consumer products and 29,000 are killed. Only a small fraction of those result in lawsuits, but the total cost to us of having assurance that there is protection in the event that there is harm caused by a defective product comes to about one penny one of a \$5 purchase.

That is a very small price to pay for the assurance that someone who is burned and who will face one painful skin graft after another, to a young family whose infant is going to require care for the rest of that child's life, to a young child who is scarred for life, why deny rights to those people when the cost to America is 1 cent for a \$5 purchase?

But we are told, of course, that this is a jobs bill, that it means more jobs. It is only anecdotal evidence that tells us that, but why then if it is a jobs bill are we replacing the concept of personal responsibility with giving foreign manufacturers an advantage over American manufacturers? We say that if you build your project in Taiwan, in Singapore, in Germany, you are going

to have under this piece of legislation advantages that are not available to American manufacturers. I think that has got it all backward.

Just as this reliance on something other than personal responsibility has got it all backwards, just as the argument of States' rights, of letting our States resolve these issues, rather than turning them all over to the Federal Government to resolve, has got it all backwards.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from South Carolina [Mr. INGLIS].

Mr. INGLIS of South Carolina. Mr. Speaker, I thank the chairman for yielding me the time.

I rise in strong support of this conference report and with some observations. We have heard a lot about how this is going to impair the ability of those that are legitimately injured to recover, so I think it is important just to go through an example. Let us assume, as I did recently when I had an opportunity to discuss this bill at the Wilson Equipment Co. in Spartanburg, SC, that one of their John Deere tractors injures somebody.

Let us assume this scenario. Mr. Jones is cutting grass with a riding lawnmower. A rock is thrown out of the lawnmower, hits Mrs. Jones who is nearby tending the flower garden or something. Mrs. Jones is hurt badly. Let us say she is hurt real badly. Let us see what happens in this case. Well, of course the Jones are going to sue for the medical bills that Mrs. Jones incurred. They are also going to probably sue for pain and suffering, and they are going to sue for punitive damages, everybody does. So let us see what happens.

Economic damages, let us say she had medical bills of \$200,000. Again, I am assuming that Mrs. Jones is really hurt. If she is really, really hurt, it is more than \$200,000. But I am intentionally choosing a relatively low number, \$200,000 economic damages. Now, let us assume that the jury awards Mrs. Jones \$200,000 for pain and suffering. Mind you, it is very important to note this is not limited in this bill. Pain and suffering will not be limited so the jury is free to decide whatever they want. Mrs. Jones is really hurt and they give her \$200,000 pain and suffering. She has \$200,000 economic damages, \$200,000 pain and suffering.

Now we come to the only limit imposed in the bill and that is of course punitive damages. The jury is instructed and here is what they can do. They can give her 200 plus 200 times 2, would be the maximum that they could give in this case. So Mrs. Jones here will get \$400,000 potentially in punitive damages. So she has gotten \$200,000 economic damages, plus \$200,000 pain and suffering, plus \$400,000 punitive damages. I am sorry, plus \$800,000. She has 200 plus 200 times 2, so that is \$800,000 punitive damage amount. So Mrs. Jones can recover 200 plus 200 plus 800, which is \$1.2 million.

Now, that is a fair amount of money, but it does not really put Mrs. Jones back where she was, and we have to admit that. If she is really badly hurt, it is just a bad situation. She has gotten \$1.2 million, but she would really rather not have the money. She would really rather have her health back. But we cannot put her health back, so we give her \$1.2 million. That is our system operating rationally, I believe; \$1.2 million for this hurt Mrs. Jones.

Now mind you, there is still plenty of money for the trial lawyers, and I realize a lot of people in this body defend trial lawyers as though they are the greatest folks in America. There is still one-third for them, so in this case the trial lawyers get \$400,000. There is still plenty of money in the system for adequate recovery.

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

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

Mr. CAMPBELL. Mr. Speaker, I rise in support of this bill.

I would like to take this time to comment on the issue of tort reform, and its ramifications on our business community, and especially upon California's Silicon Valley.

For years, the debate has raged over whether our country engages in excessive litigation. Some have offered the argument that lawsuits are socially useful in defusing workplace tension, deterring dangerous means of production, and compensating those who have been harmed. Others have as strongly maintained that lawsuits have siphoned off scandalous amounts of time and energy, caused many good ideas never to be commercialized, dried up capital for investment, and crippled America in competition with the world. So, who is right?

I have concluded that our civil liability laws are indeed in need of reform to stem the flood of frivolous lawsuits that have detrimentally affected productivity and overall employment not only in California but across the Nation. My position is based upon a study that I participated in, which showed conclusively that the more a State reformed its civil liability laws, the greater its productivity and employment increased.

Here are a few facts and statistics:

Frivolous strike suits, which allege fraud when stocks take inevitable dips, have hit every one of Silicon Valley's top 10 companies and more than 60 percent of the valley's high-technology firms.

According to one estimate, shareholder suits are a \$1.4 billion a year business, with settlements averaging \$11 million.

A suit brought against 60 computer monitor manufacturers alleges fraud on behalf of the manufacturers because monitors labeled as 15 inches have—due to the dark border characteristic of computer technology—an actual viewing space of 14¾ inches.

The accounting firm of Tillinghast-Towers Perrin reports that the tort portion of our legal system cost \$152 billion in 1994—two and half times the industrialized world average.

What we need are reforms that will stem this explosion of tort litigation; reforms like

placing caps on contingent fees and pain and suffering awards; allowing defendants to pay damages over time; constraining punitive damages; and modifying the joint-and-several-liability rule where a party only partly at fault can end up paying the entire damage award if the other parties at fault cannot.

I want to make clear that I seek only to bar frivolous lawsuits and not block those that have merit. A step in this direction was taken when Congress over-rode a Presidential veto and enacted the Securities and Litigation Reform Act of 1996. It reigns in frivolous class-action suits that victimize employers and investors across State lines. It provides, for example, protection to companies with solid records of rapid growth from lawsuits over a minor loss in a single quarter. And when legal costs can easily rise to the millions of dollars, mostly new, startup entrepreneurial high-technology firms are at greatest risk. This is especially true for Silicon Valley.

The litigation mess is not only affecting big business. It also prevents small businesses from expanding, causes new drugs and new products never to reach the market, and results in charities running short of volunteers.

Everyone today is a potential hostage to capricious and expensive lawsuits. National civil liability reform is needed to correct this broken system. I do not seek to sanction corporate irresponsibility, but merely to obtain reforms necessary to obtain fairness and common sense; with the result being more jobs and greater productivity in every State.

Finally, I was disturbed to learn that there is now an Internet web site which invites the public to invest in shares of lawsuit stock. Essentially what this outfit wants to do is publicly sell and trade stock based not on the performance of a corporation, but on the outcome of a lawsuit. I cannot view this approach in any other light than as another example of how out of control our tort system has become and how essential it is that we institute systemic reforms like the ones I have mentioned.

Mr. CONYERS. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, I remind the distinguished gentleman from South Carolina [Mr. INGLIS] that in his hypothetical, he used up 1 of the 14 punitive damages cases that occur annually in the U.S. courts.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BONIOR], the minority whip.

Mr. BONIOR. Mr. Speaker, I thank the gentleman from Michigan [Mr. CONYERS] for yielding me the time.

Let us be clear what this bill does. Let me put this in another perspective from the example that was just given by my friend from South Carolina. If you are a corporate CEO and you make \$1 million a year and God forbid you should have an accident because of a product malfunction, this bill says that you can receive full recovery of your economic losses. But if you are a working mom and you make \$15,000 a year and you are struggling to put a little away for your child's education and you should be injured by that same accident and that accident involves more than one wrongdoer and God forbid you should lose your ability to have children, you may never be fully com-

pensated for pain and loss. Now that is what this bill does.

This bill says the lives of corporate CEO's and Wall Street bankers and the economic elite are more important and more valuable than the lives of the working men and women, and I think it is shameful. Mr. Speaker, we do not need a bill that tilts the balance away from victims of defective products and toward the big corporations who make them.

We certainly do not need a bill that gives foreign manufacturers a leg up on American companies. Even though 82 of my Republican friends supported an amendment that put America first, it was dropped in the conference committee by the Republicans. That too is shameful. Mr. Speaker, if we live in a country where 98 percent of the growth in income since 1979 has gone to the top 20 percent, the other 80 percent has gotten 2 percent of real income growth in this country. What is going on here?

Mr. Speaker, yesterday the Republican leadership, in both this body and in the other body, blocked efforts to raise the minimum wage, and once again we are here today trying to write special rules for the wealthy one more time. Mr. Speaker, enough is enough. It is a tragedy when anybody is injured by a faulty product. Let us not make women and children and seniors pay a special price.

I urge my colleagues to vote "no" on this conference report. The President has indicated he will veto this bill because of the reasons and other reasons that have been given on this floor, the reasons that I gave and others have given, and we will need roughly 140-some votes to sustain his veto. So this is a very important vote this afternoon, and I urge my colleagues for economic justice for the people that we represent that we send this measure down to defeat this afternoon.

Mr. BLILEY. Mr. Speaker, could we get a report on how much time remains?

The SPEAKER pro tempore (Mr. GUNDERSON). The gentleman from Virginia [Mr. BLILEY] has 11 minutes remaining, the gentleman from Illinois [Mr. HYDE] has 8 minutes remaining, the gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining, and the gentleman from Michigan [Mr. DINGELL] has 7 minutes remaining.

Mr. BLILEY. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in support of the conference report.

For almost two decades now, the House Committee on Commerce has grappled with the issue of product liability reform. After developing an extensive record on the subject of product liability law, the committee concluded that the present system places an enormous burden on interstate commerce, inflates prices, stifles innovation, and subjects manufacturers and sellers to a capricious lottery where sanctions can exceed any found in criminal law.

Last year, we worked with the Judiciary Committee to draft a joint legal reform bill to bring some common sense back into our legal system. We then worked with our Senate counterparts to help them move this critical legislation forward. While the final conference agreement falls somewhat short of the reforms passed in the House, it still represents a great achievement and far more than anyone might have hoped for just 2 years ago.

For the first time in our Nation's history, we will enjoy the protections of proportionality requirements for punitive damage awards. Damage awards for speculative noneconomic injuries will now be based directly on someone's actual responsibility for the harm, not on the depth of a defendant's financial pockets. Plaintiffs who harm themselves primarily through their own excessive use of drugs and alcohol will no longer be able to transfer the costs of their addiction to third parties, and frivolous claims against innocent product sellers and biomaterials suppliers will no longer be allowed.

These reforms will play a critical role in increasing the long-term competitiveness of American industry and thereby protecting American jobs. And they will create a renewed emphasis on fairness and accountability in our legal system, without undercutting the basic rights to restitution for consumers.

I recognize that the President has promised to veto this pro-jobs, pro-fairness bill. This is unfortunate. As Governor, President Clinton twice supported resolutions drafted and unanimously approved by the National Governors Association calling for Federal product liability reform.

Throughout the last year we have been working with Senator ROCKEFELLER's staff in the Senate to communicate with the President and modify the bill accordingly, deleting numerous stronger House reforms and adopting an extended additur provision for punitive damages which his own Cabinet helped to write. The administration's last minute bait-and-switch was subsequently decried by Senator ROCKEFELLER, who noted that "Special interests and raw political considerations in the White House have overridden sound policy judgment." This sort of trial lawyer protectionism and turnstile politics, revealed earlier on securities litigation reform, is beginning to ring very hollow.

Part of the premise of the Contract With America was to put an end to politics as usual in Washington. This legislation is a consensus solution, built on decades of bipartisan efforts by my Democratic colleagues and fellow Republicans, for bringing some balance and reasonableness back into our legal system. I ask your support in helping us bring this commonsense reform back into our legal system.

Let us pass this with an overwhelming vote and send it to the President and hope he changes his mind.

□ 1245

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mrs. LOWEY].

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

Mrs. LOWEY. Mr. Speaker, I rise in opposition to the conference report on the product liability reform. This bill benefits those who place profits above the health and safety of the American public, and it should be defeated.

Let's look at some of the real-life consequences that this ill-considered legislation would have.

Currently, there are approximately 1 million women who have silicone breast implants. To date 100,000 of them have suffered real harm from these devices. Although these women were told that the implants were safe, many began to leak and break—exposing the women to the silicone inside. If this bill is passed, implant manufacturers will be exempted from liability, and thousands of the women who are ill will be prevented from recovering damages.

This bill will hurt American women in other ways. The legislation eliminates joint and several liability for noneconomic losses—which means that if a housewife from my district and Donald Trump are both injured by the same defective product, Donald Trump will be able to recover much more money for injuries. That's wrong Mr. Speaker—we must not make it more difficult for women to recover damages from the companies of defective products.

I would also like to bring to my colleagues' attention a very shocking unintended result of this bill. Mothers Against Drunk Driving opposes this bill because it will cap punitive damages that can be enforced against those who serve alcoholic beverages to obviously intoxicated persons and minors.

Last year, this House passed a measure that I introduced that will finally get tough on underage drunk driving. That measure is now the law of the land and States that do not have zero tolerance policies for teens who drink and drive are in the process of adopting them. We must not now take away one of the biggest disincentives bar owners have to serving minors by passing this bill. We must not send a mixed message to Americans about drunk driving.

My colleagues, this bill says to companies that making defective products is just another cost of doing business. We must demand that companies take responsibility for their actions—just as we demand that individuals do. Those who put profits ahead of their fellow human beings do not deserve our protection.

Mr. HYDE. Mr. Speaker, I yield myself 30 seconds simply to say I have heard so many things about this bill that just are not so. There is nothing in the world inhibiting a woman who has a faulty breast implant from suing and getting full recovery, economic,

noneconomic, and, if the case warrants, punitive damages, twice whatever the economic and noneconomic total up to. And if it is an egregious case, the judge can add more to it.

So I just do not know what I am hearing here. They are talking about some other bill that has not been written.

Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Tennessee [Mr. BRYANT].

(Mr. BRYANT of Tennessee asked and was given permission to revise and extend his remarks.)

Mr. BRYANT of Tennessee. Mr. Speaker, I thank the gentleman for yielding me this time.

I, too, rise in strong support of this bill, this conference report, and think it is a very modest bit of reform.

As an attorney who practiced in the civil litigation area for a number of years, it is interesting to hear the debate on this floor. It is very different being in the courtroom where you can respond directly to statements that are made, sometimes outrageous statements that are made, sometimes misstatements that are made. And in the arena on this floor it is difficult to sit here and listen to some of these examples that are being thrown out as why this very good reform should not occur.

Let me tell you what, let me respond, I guess, in the best way I can to some of the allegations being made about this bill. The chart goes up and says, well, punitive damages cases are not that significant in number, very few are filed in a year, even less awarded.

Let me tell you in the real world how punitive damage cases affect you and I that cause a huge litigation tax on the average American citizen that is in the thousands of dollars each year that we all pay for in some way or another in direct or indirect costs of product liability lawsuits.

Every case that comes in that has punitive damages claims has to be assessed and has to be judged as to whether or not what that case is worth in terms of actual compensatory damages and what it is worth from a punitive damages standpoint. Many of these cases are settled before they even result in lawsuits. They are settled before a case is even filed. Those cases are not going to show up on this chart. Most cases are settled, once they are filed, out of court before they go to judgment. As you settle these cases wherever it is in the process, you have to take into account what is this case worth from a punitive damage standpoint. It affects very dramatically the cost of litigation. Cases that should be settled early should be settled quickly, that do not have to go through the long extensive litigation that costs everyone, are not settled because of this. If we place a cap, a reasonable cap, on punitive damages, it will help the consumer, it will help the injured plaintiff get quicker disposition of their lawsuit, quicker settlement,

quicker money in their hands, quicker compensation. And I suggest to you it would be more fair to all concerned. It completely allows full recovery for compensatory damages. This bill is no way affects a person's right to recover for pain and suffering, permanent disability, lost time from work, future income, earning capacity diminished, medical bills. It affects that in no way. All it affects are punitive damages, and its gets some correlation, some relationship between this case and not a pie-in-the-sky figure that that particular jury feels like awarding that day, whether it is a McDonald's case or the BMW case or whatever. It makes the person responsible pay for the negligence they caused, their portion of the injury. If a defendant is found liable for 20 percent of the injury, they do not have to pay 100 percent of the damages. That is only fair. You only pay what you are responsible for causing. And we are hearing complaints about that.

We have heard about the special-interest groups here, and we are not really, I guess I should say that this debate really may even be moot because we have already been told by our President that he is going to veto this bill. He says he is for small business and for doing things to stimulate the economy and helping out the small people. But yet he is already saying he is going to veto this very modest bill that is supported by people on both sides.

This is not a Republican-Democrat issue.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN], a distinguished member of the Committee on the Judiciary.

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

Mr. BERMAN. Mr. Speaker, I rise in opposition to the conference report on what I would view as the Victim Compensation Depriving and Deterrence Weakening Product Liability Report.

I do not oppose this bill in the belief that American law on product liability is perfect. But like many other Members of this body, I found that my efforts, in committee and on the floor, to moderate the excesses of this legislation, and in so doing, to articulate the sorts of reforms I can support, were entirely shut out by a majority hell-bent on moving an industry agenda at the expense of American consumers.

Nor is it the notion of uniform Federal law on the subject of product liability which I oppose, even though this subject has traditionally been viewed as a matter for State law. States' rights is not my watchword, though I thought it was the operating principle for my colleagues in the majority, a principle they seem to set aside when expedience dictates.

But what we find in this conference report is not uniformity. Instead, what we have is Federal standards except where a State's law is worse in terms of consumer protection. So let there be no mistake about what this legislation is about. Uniform national standards? Hogwash. This is lowest common denominator justice for consumers.

I also want to express my very strong support for solving the problems faced by biomaterials suppliers. I am dismayed that their interests have been sacrificed to advance an extreme agenda I cannot support. If this bill is indeed vetoed, and that veto is sustained, I hope that we can move the biomaterials access reforms to solve that particular industry's problems for the benefit of all Americans.

Mr. Speaker, I cannot support legislation that deprives injured victims of fair compensation, and eliminates important deterrents to the design and manufacture of unsafe products in the first place. I oppose this conference report, and I urge my colleagues to do so as well.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from North Carolina [Mr. WATT], a member of the Committee on the Judiciary.

(Mr. WATT of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. WATT of North Carolina. Mr. Speaker, I rise today in opposition to House conference bill H.R. 956, the conference report on the Products Liability Reform Act.

Folks are on the floor today blaming lawyers for all the ills in America today. And this conference report is suppose to protect America from these greedy trial lawyers. Well, for the record I want you all to know that prior to coming to this place, I practiced law for 22 years and I'm proud of that and I'm proud of the contributions of the bar in shaping America and making it a better place for all of us.

People often quote the line from Shakespeare's "Henry VI," "First thing we do, let's kill all the lawyers." Sounds funny out of context. But they don't tell you about the scene. It's a scene where a corrupt king and his followers are trying to figure out how to suspend everybody's freedoms and rights and the only folks who could possibly stand in their way—you got it, the lawyers. Think about that the next time you're tempted to use this quote.

Calling someone a hypocrite might be funny too, if it's taken out of context. And yesterday, we spent an hour debating whether it was proper debate for one of my Republican colleagues to call Democrats hypocrites. Well, I want to be careful not to call any one or any party a hypocrite, even though the ruling of the Chair yesterday confirmed that I would be within my rights to do so. I would, however, like to pose the question in the context of this debate on product liability reform: Exactly who is being hypocritical?

Who is being hypocritical when they claim they want to stop the explosion of individual product liability claims so that you can alleviate the backlog on civil court dockets when, in fact, the backlog has been caused by an explosion of civil claims filed by big businesses against other big businesses over commercial disputes? My 22 years of practicing law showed me, and the statistics confirm it, that antitrust and commercial litigation is getting longer and longer, more and more complex and taking up more and more court time. At the same time, individuals are being squeezed out and priced out of courts. Courts are no longer for the people. They can't afford them.

Who is being hypocritical when they preach about personal responsibility for individual citizens but then absolve corporate citizens from responsibility for injuries they cause, even when the corporations make a calculated business decision to do so?

Who is being hypocritical when they claim to be champions of States' rights and a limited Federal Government on one hand, but then fight for this legislation, which would preempt the laws of 50 States which have developed over hundreds of years on the other hand?

Finally, who is being hypocritical when they claim to support individual rights even though they're supporting a bill that will severely limit an individual's access to justice? That's what this bill does.

Vote "no" on this bill. Fight hypocrisy.

Mr. CONYERS. Mr. Speaker, I yield 1 minute and 20 seconds to the gentleman from Massachusetts [Mr. FRANK], the ranking member of the Subcommittee on the Constitution of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, I had been undecided on this bill. I am now going to vote against it. It is a far better bill than the one the House previously did. I still have concerns about the unequal effects on women.

But I must tell you that I am very unprepared at this point to vote for one more piece of legislation that the corporate leadership of the country wants at a time when it has unfortunately been so resistant and unyielding to the cries many of us have made for some fairness and for some social justice.

A company in the city I represent, New Bedford, we just learned, has been bought up by a larger entity and a profitable company will be shut down, jobs will be lost, and it will be moved away. In the right overall mix, I am prepared to support product liability. But at a time when the minimum wage is stonewalled, when unions are, in effect, dismantled by the misuse of the law by employers, when corporate salaries go up and up and up and we get no sympathy whatsoever for the plight of workers, I am not prepared to provide one more thing on the shopping list of those who are already doing well.

On the merits, as part of an overall package, I could support this. I would hope it would be somewhat better drafted. But I will not at this point contribute, will not be part of furthering a public policy imbalance which says that those who own do better and better and those who work, unfortunately, are treated less and less fairly.

As part of an overall approach to fairness in America, I would be supportive of this, but not as simply one more gift to those who are already gifted.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE], a member of the committee.

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

Mr. GANSKE. Mr. Speaker, I would just like to address the gentleman from Massachusetts for a moment and ask that he strongly consider supporting this bill. I am going to deviate from my notes and speak to a prior speaker who had concerns about breast implants.

My mother had breast cancer when she was 24 years old. I can remember as

a child her external implant falling out of her swimming suit. She has had a breast implant since then, and this has been a great thing for her.

As a physician, I have been involved with medical devices. I am concerned about the availability of these products for our patients. My wife had a sister who was born with a condition called hydrocephalus. This is where the cerebral spinal fluid does not get absorbed, and if there is not a cerebral spinal fluid shot, the head rapidly expands. Had that product been available to my wife's sister, she would still be alive today.

If we do not get a handle on product liability, we will not have the type of medical devices that will be necessary to protect the lives and health of our brothers, our sisters, our parents. This is a very reasonable and modest bill. I am glad that my colleague from Michigan [Mr. DINGELL], the ranking member of the Committee on Commerce, supports this bill.

I would urge the President to sign this bill. This is a bipartisan bill. This is not about politics. This should not be about politics. This bill is about providing products for people's health and their lives.

Mr. GANSKE. Mr. Speaker, this do-something Congress is working hard for the American people. Yesterday, we passed legislation to make health insurance more affordable. We passed a bill to allow senior citizens to retain more of their earnings if they remain in the work force. We passed a bill to give regulatory relief to businesses. We passed the line-item veto. And we gave final approval to legislation to modernize our Depression-era farm programs.

Today, we will send to the President product liability legislation to restore common sense in this area; to protect consumers and prevent abuse that unnecessarily raises the price of practically everything we buy. Amazingly, President Clinton has threatened to veto this modest bill that Mr. DINGELL supports.

Mr. Speaker, if the President vetoes this bill, the losers will be the American people, victims of a hidden lawsuit tax. They pay more for goods and services because businesses are forced to spend hundreds of millions of dollars in defending frivolous lawsuits.

Mr. Speaker, this is not partisan politics. A leading Democrat in the other body said "Unfortunately, special interests and raw political considerations in the White House have overridden sound policy judgment." That's a Member of the President's own party speaking.

I urge my colleagues to vote for this limited legal reform bill and to give it the votes necessary to override a threatened veto.

This bill isn't everything I think is important, nor is it everything my colleague from Michigan wants. But in the spirit of cooperation in order to move to a better solution, we are both supporting this bill. I urge Members of both sides to put aside partisan politics and support this bill.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I rise in strenuous opposition to this conference report.

Remember the famous Pinto automobile recall, the exploding gas tanks. Remember the fact that the manufacturer knew the gas tank in the back of the car would explode if hit in an accident. Remember the in-house memo that the manufacturer sent that admitted they knew the gas tank would explode, but made the cold-blooded decision it would not be cost-effective to recall the car? They said it would cost them too much money. Lives were lost. People were harmed.

How dare anybody suggest we dismantle our current product liability laws? Greedy corporations will increase their profits at the expense of the American people if we, as public policymakers, do not have enough backbone to stand up for the protections for our citizens. We do not deserve to be here if we cannot protect them. As many as 6,000 American lives were saved each year due to the current deterrent of product liability laws.

Mr. Speaker, this bill is a sham. It must be defeated.

□ 1300

Mr. HYDE. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Virginia [Mr. GOODLATTE], a distinguished member of the Committee on the Judiciary.

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

Mr. GOODLATTE. Mr. Speaker, I thank the chairman of the committee for yielding me this time.

Mr. Speaker, the other side and the President have a number of times said that this is an anticonsumer bill. Mr. Speaker, this is a proconsumer bill. This bill is very fair to those who may experience harm as a result of a defective product, but at the same time taking away from juries the opportunity to give unlimited amounts of awards that affect every consumer in this country by taking product off the market, as the previous speaker, the gentleman from Iowa [Mr. GANSKE], just indicated, and by increasing the cost of insurance and, as every corporation in this country does, spreading that increased cost to every consumer in this country with increased prices. This is a very fair bill. Juries should not be legislators. They are unelected. They should have the opportunity to determine the compensatory damages, to determine the pain and suffering award, and a reasonable amount of punitive damages in cases where they find it appropriate, but it should not be unlimited.

Mr. Speaker, I urge support of this report.

Mr. CONYERS. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. GUNDERSON). The gentleman from Michigan has 10 seconds remaining.

Mr. CONYERS. Mr. Speaker, I yield the balance of my time to the gentleman from Michigan [Mr. DINGELL], the dean of the House, and ask unani-

mous consent that he be allowed to allocate that time.

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

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BECERRA].

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

Mr. Speaker, on balance, this conference report is transparently unbalanced. It is bad where State laws would otherwise benefit consumers and victims, and it is good where State laws would benefit manufacturers. The problems for States, this law preempts States that wish to take action at the State level against product liability abuse.

Who does this conference report exclude the Conyers provision that would have held foreign manufacturers liable for damaging, injuring, killing American citizens?

Why does this conference report on the manufacturer of a defective elevator that might be 14 years, 364 days old, let that victim sue that manufacturer of that defective elevator, but the next day that same victim would not be able to sue because of a statute of limitations that would not allow that to occur?

Why does a victim of a manufacturer's product have to prove, through a higher burden of proof, the damage occurred or the injury occurred?

This is an unbalanced conference report. It does not deserve the support of this conference, because it does not support the American consumer. I urge a "no" vote.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. WHITE], a member of the committee.

Mr. WHITE. Mr. Speaker, until about a year and a half ago, for 15 years I practiced law in the city of Seattle. I have to tell you that anybody who has been involved in our legal system and has taken a fair and objective look at it knows that, unfortunately, our legal system is broken and badly needs to be fixed.

It does not have so much to do with the number of cases that are filed, the number of product liability cases that we have. It is the fact that every week we hear a new ruling that offends our fundamental sense of justice about what our system is supposed to produce. Every week we hear about the cup of coffee is spilled on someone when they are driving in their car and all of a sudden they can collect \$2 or \$3 million for that. We hear about the paint job that was not quite right on the BMW, and somehow that results in a judgment of multimillions of dollars.

Ordinary people and lawyers and all of us who hear these things get the impression that, unfortunately, it is becoming true that our legal system has turned into an elaborate game of

chance, where if you play the game right, you have the right lawyers, you can hit the jackpot and make a lot of money.

That is the most pernicious thing about the developments we have seen in our legal system over the last several years. It is a tragedy when a child is killed or someone is injured because of using a product. But the fact is, no matter how much money we compensate that person for, we cannot bring back the child, we cannot bring back the arm that is cut off, or we cannot fully solve the damages. Unfortunately, our system seems to equate paying money to solving that problem. It is something we just cannot do.

This bill is a modest bill. This bill does not go far enough. There are many additional things that we should do to solve the problems in our legal system. But it is a modest step that we need to take.

Mr. Speaker, I urge my colleagues to vote for this, and I hope very much the White House will change its mind and sign this bill when we pass it in this Congress.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, the sad part of this whole debate is the fact that it attacks the confidence and credibility of an institution that has served Great Britain and the United States and our various States now for some 700 years, and that is the jury trial. Sure, juries are composed of humans, and you are going to find some cases that many people will disagree with the outcome of. Jessie James' brother, Frank James, for instance, was acquitted, even though there was hard evidence that he held up those banks. Many people disagreed with the outcome of the O.J. Simpson case. But overall, Mr. Speaker, the jury trial is a very basic institution. What this does is this takes it out of balance.

I had the opportunity through the years to participate in the American justice system by trying cases, by defending people accused in civil cases, by representing others. So I think we should do our very best maybe to look at this again in light of the fact that we have a very sound institution called the jury system.

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

Mr. Speaker, I was shocked to learn that the jury system is somehow no longer applicable. That is news to me.

Mr. BLILEY. Mr. Speaker, it gives me pleasure to yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN], a member of the committee.

Mr. TAUZIN. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, let me first make a confession: I am a former trial lawyer. I still hold a law degree.

Let me also disabuse you all of a notion: This House is not composed of a majority of lawyers. Only 170 Members of this House admit or believe they

have a law degree; 435 Members, 170, that means three-fifths of this House are not lawyers. That surprises most people. They think it is the other way around.

Many of the lawyers in this House rise as I do today in support of these commonsense legal reforms, and it is to the lawyers in the House I want to speak for a minute.

We have a responsibility to the legal profession. We were educated in it. Many of us practiced in it. Our obligation is to make sure that it is a good profession, that it works well, that justice arises out of it. And when the law and when the practice of the law is such that it encourages frivolous lawsuits, that it encourages the pursuit of deep-pocket defendants instead of responsible parties, when it does not make people personally responsible for their own actions, as this bill does when it says if you are drunk or on drugs and you have an accident and that is the real cause of the injury you ought not be able to sue someone and collect, when we in this body are prepared to write commonsense legal reform, lawyers ought to be the first ones to rise and say we are prepared to do it.

We did that on security litigation reform. We passed that bill by a two-thirds vote of this House and the other body. The President vetoed it. We overrode his veto. We passed good commonsense medical reform, malpractice reform yesterday in this House. I hope we see that through to finish.

If we pass this bill today and send it to the President, I hope he will do something very important. If lawyers in this House can say yes to commonsense legal reform, then the President ought to be able to say no to some of his trial lawyer friends, and he ought to sign this good bill when it hits his desk.

Mr. BLILEY. Mr. Speaker, it is a great pleasure to yield the balance of my time to the gentleman from Colorado [Mr. SCHAEFER], the chairman of the subcommittee.

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 2½ minutes.

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

Mr. SCHAEFER. Mr. Speaker, I thank the chairman of the committee for yielding time to me. I commend the work of the House conferees on this important legislation. This plan will bring some commonsense to our country's product liability laws.

Sadly, frivolous litigation has become a fact of American life. Too often, bringing people to court has taken the place of personal responsibility. People treat liability damages like a lottery. Urged on by attorneys with huge financial stakes, many people no longer look at themselves first for blame, but instead search out the easiest way for a big court settlement.

Frivolous suits cost our economy up to \$80 billion every year. Thus, Amer-

ican companies have become hesitant to pursue technological innovation and product development for fear that their actions may result in never-ending court battles and financial ruin. This well-founded fear is costing jobs, consumer benefits and, if continued unchecked, it will cost America its competitive edge.

I would like to address one particular section, the biomaterials access provision. One of America's leading industries is the biomaterial device field. These products literally save and enhance lives every day. From pacemakers to artificial heart valves to cataract replacements, the products afford miraculous opportunities for recovery, allowing people to continue their lives.

The suppliers of base materials often-times provide the manufacturer with elements of the device that are too costly to produce except in mass quantities, but alone have no implant value or purpose.

Unfortunately, in recent years, these suppliers have been named as codefendants in lawsuits against actual device manufacturers. In almost every case, they are cleared of any wrongdoing or negligence. Nevertheless, in the process, they are forced to spend vast financial resources to achieve exoneration.

This litigation risk has caused many supply companies to, quite simply, stop providing base materials for these life-savings devices. Consequently, the inability of device manufacturers to obtain the needed base supplies is causing the death of the biomaterials industry in America.

The biomaterials section addresses this tragic consequence of overzealous litigation. This language will assure that, quite simply, unless the supplier is negligent in the design specifications requested by the device manufacturer or if the supplier is also a party in the overall manufacture or marketing of the device, the supplier is cleared from liability.

This commonsense legal reform bill goes a long way toward ending this litigation madness, while preserving each individual's right to pursue just compensation for actual harm. I urge my colleagues to support this long overdue reform.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas, Mr. PETE GEREN.

(Mr. PETE GEREN of Texas asked and was given permission to revise and extend his remarks.)

Mr. PETE GEREN of Texas. Mr. Speaker, I rise in support of this conference report.

I believe the Commonsense Product Liability Act has become necessary to deal with our increasingly litigious society and the arbitrary and capricious nature of many punitive damage awards.

Today, in 1996, product liability unquestionably has become a major factor in interstate commerce. Less so 20 years ago, but today product liability determines what goods are

available in what States and at what price. Further, liability laws have had the impact of sending the manufacture of goods overseas, taking American jobs with them, for example, as we've seen in the private aircraft industry.

There can be no doubt that the measures in this legislation—punitive damage reform, joint and several liability reform, and a provision similar to an amendment that I offered to the original House bill—that limits the liability of rental and leasing agencies for the tortious acts of another—fall well within this category of appropriate and much needed reform. The changes proposed in this bill will rearrange the legal landscape, but they will further the cause of commerce and competitiveness, reduce costs for consumers and create jobs across America.

The problems we address in this bill are national problems. American citizens, businesses, municipalities, and other charities across our Nation pay \$80 billion a year as a litigation tax. And these costs are paid by all of us through increased costs in our goods and services. Today 30 percent of the price of a stepladder and over 95 percent of the price of childhood vaccines go to cover the costs of tort liability. Each new private aircraft made by American workers has a \$100,000 litigation tax added to its cost. The present system costs jobs, costs lives, and burdens every citizen in America with a litigation tax that is unaffordable.

The time has come for sensible product liability reform. This legislation will strengthen the economy and the free market by removing the impediments to interstate commerce and encouraging innovation. His legislation provides a national solution to a national problem, and I hope my colleagues will join me in supporting it.

Mr. DINGELL. Mr. Speaker, I yield the balance of my time to the gentlewoman from Texas [Ms. JACKSON-LEE].

The SPEAKER pro tempore (Mr. GUNDERSON). The gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 2 minutes and 10 seconds.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am here to talk about people. I think that is what we have missed in this whole debate. Thirty million Americans are injured by consumer products, not including automobiles; 29,000 people are killed in tragedies that involve everything from medical devices to chain saws.

It is important that my colleagues realize that we should not draw the line in the sand amongst ourselves. This is in fact the people's House. Most do not care what side we are on. They only ask that we remedy a problem that exists for the American people.

I have heard my colleagues talk about frivolous lawsuits and moneys that are expended.

Mr. Speaker, may I share with my colleagues that the Department of Justice said that product liability cases represent only 1.6 percent of civil cases. May I say to my colleagues that we have only had 14 injury awards of punitive damages annually for the last 2 years. But allow me to tell Members

a story of an American worker who may be injured by a product older than 15 years old. That injured worker may be injured by a product that explodes while he is trying to work for his family. That individual has no rights under this law. But yet his corporation or his factory could still go to court and charge that the product maker interfered with his business. But that injured employee can no longer go to the court under this legislation. Thirty million Americans are injured by devices.

I heard my colleague talk about breast implants. Let me respect his expertise and the acknowledgment of the progress that has been made in breast implants. But there are many, many women who have suffered under the present design. I want to make sure that the sons and daughters in the future will not suffer the pain of these women who are involved in present-day breast implant litigation.

That is what this House is here for. The people's House is here to ensure the people's rights. And this products liability bill is, in fact, what the New York Times said, it is the "Anticonsumer bill for 1996."

Remember the 30 million, remember the 29,000. Vote against this legislation.

Mr. Speaker, I rise today to express my concerns regarding the conference report on H.R. 956, the product liability reform bill. The proponents of H.R. 956 may have intended for this bill to level the playing field among consumers and manufacturers but it does not achieve this goal. The bill eliminates joint liability for noneconomic damages and caps punitive damages at \$250,000 or two times compensatory damages, whichever is greater.

While most interested observers agree that some elements of the current product liability system need to be reformed, they do not believe that such reform is necessary because of a great explosion of product liability lawsuits. The Justice Department's Bureau of Justice Statistics indicates that product liability cases represent only 1.6 percent of civil cases. Another influential study on product liability lawsuits indicates that there have been only an average of 14 jury awards of punitive damages annually for the last two decades.

Contrary to arguments made by proponents of the bill, the current system is not discouraging capital investment or increasing the costs of developing new products. In fact, the General Accounting Office reports that insurance costs to businesses represent less than 1 percent of most businesses' gross annual receipts. Moreover, the National Association of Insurance Commissioners indicate that product liability insurance premiums have dropped by nearly 30 percent over the last 6 years.

President Clinton has already announced that he will veto this bill because it preempts State law when such law favor consumers and defers to State law when such provisions favor the manufacturers. I am surprised that many members of the majority party in the House support this bill's uniform, Federal product liability stand-

ards since these Members strongly favor granting more authority to State governments.

Specifically, I am concerned about the elimination of joint and several liability for noneconomic losses because of its potentially disproportionate impact on women, children, and the elderly. The bill retains joint and several liability for economic losses such as lost wages. Noneconomic losses such as disfigurement or loss of fertility deserve similar treatment by the legal system as economic losses such as lost wages. This particularly impacts the number of breast implant cases affecting women across America.

The provisions of the bill relating to punitive damages must be carefully examined because punitive damages provide a powerful incentive for manufacturers to make strong efforts to ensure that their products are safe. A cap of \$250,000 on punitive damages would mean that some large companies may incorporate this figure as a cost of doing business as they implement their quality control procedures for manufacturing products. Moreover, a provision in the bill permits judges to award punitive damages exceeding \$250,000 in egregious circumstances. The intent of the bill however, is that a judge would rarely exercise this discretion.

Additionally, I am concerned about the statute of repose provision that prohibits courts from awarding damages for injuries caused by durable goods that are 15 years or older. The definition of durable goods is narrow and excludes various consumer products.

During the recent elections in California, the voters of that State rejected various referenda that would have changed the tort liability system by restricting the rights of consumers.

Mr. Speaker, I urge the Members of the House to carefully review the provisions of this bill and consider its potential impact on millions of American consumers.

Mr. HYDE. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. MANZULLO].

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANZULLO] is recognized for 3 minutes.

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

Mr. MANZULLO. Mr. Speaker, today we have a great opportunity to move America forward by passing this conference report on products liability reform. This is not a perfect bill, but it is a fair bill. It is fair to the consumers in America, and it is fair to the companies that make the products.

One of the companies is Mattison Technologies of Rockford, IL. This is a company facing liability lawsuits involving products that are as old as the company itself. Madison is celebrating its 100th year of operation. That is correct, Mr. Speaker, Mattison Technologies have been manufacturing tools for one century.

Recently they were sued by a plaintiff in Ohio for a machine that was built in 1917. That is right, 1917, the same year Americans went to fight in the First World War, the same year the Bolsheviks were turning out Czar Nicholas. That is a long time for a machine tool to be functioning and too long for a company to be held liable for one of its products. Mattison has 150 employees and yet every 3 months the sheriff shows up with a brandnew summons bringing a brandnew lawsuit against the company.

I have a letter from Robert Jennings, the general manager. Listen to what he said: "The present product liability situation in this country has had a tremendous impact on our ability to successfully compete in the marketplace."

We are continuously defending lawsuits concerning machines built 30, 60, and even 70 years ago. "We are being penalized for building quality and longevity into our equipment, yet we believe this is what made in America is all about."

And what a bitter irony it is that current law keeps manufacturers from making better equipment or modifying it because that modification could be used to prove the initial design may not have been safe enough.

This bill would help rectify the problem. A 15-year statute of repose would stop such lawsuits on old products.

Mr. Speaker, a company being sued for a machine they manufactured in 1917. This is outrageous. This bill provides a balance. It protects the consumers. It protects the employers. And it also protects employees. Why are the 150 employees of Mattison Technologies the beneficiaries of this legislation? It is easy. Because if Mattison did not have to defend against these lawsuits, they could pour more into productivity, more into investment, more employees would be hired. They would become more competitive overseas.

Mr. Speaker, this is a good bill. It is a tough bill. It is a bill that is good for the economy of America. It is a bill that relates to one of the 1,800 companies in the district that I represent. I would encourage the Members of this body to vote in favor of the conference report.

MATTISON TECHNOLOGIES INC.,

Rockford, IL, March 28, 1996.

Re Common Sense Product Liability Legal Reform Act.

Hon. DONALD MANZULLO,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MANZULLO: On behalf of Mattison Technologies, Inc. and its 150 employees, I ask that you support the above referenced legislation.

The present product liability situation in this country has had a tremendous impact on our ability to successfully compete in the marketplace.

We are required to defend product liability claims against equipment that we built 50, 60, and yes, even 70 years ago.

We recently received a Complaint on a woodworking machine we built and shipped in 1917; that's 79 years ago!

We are being penalized for building quality and longevity into our equipment, yet we believe this is what "Made In America" is all about.

Among other sensible uniform product liability changes, this Act addresses the "forever liability problem" with a 15 year Statute of Repose.

The machinery manufacturing community, so vital to Illinois and the nation's economy, needs this reform.

Thank you for your support.

Sincerely yours,

ROBERT K. JENNINGS.

Mr. CARDIN. Mr. Speaker, I rise to express my disappointment with the conference report on H.R. 956, the Product Liability Reform Act. I have long been a supporter of legal reform and in particular, product liability tort reform. Unfortunately, some of the measures in this bill are too extreme and therefore, I must vote "no" on final passage.

I support a number of the provisions in the conference report including the abolishment of joint and several liability for noneconomic damages and the encouragement of alternative dispute resolution. In addition, the FDA defense proposed in the original House-passed bill was lifted in conference. Under the House bill, plaintiffs would have been barred from winning punitive damages for harm caused by products approved by the Food and Drug Administration.

The conference agreement also contains a more workable legal standard for punitive damages. Under the House bill, plaintiffs would be required to prove that a product was specifically intended to cause harm. The conference languages, which sets a standard of clear and convincing evidence for punitive damages, is a much more reasonable standard.

While the conference report improves on the House-passed legislation on punitive damages restrictions, I believe the language is still unacceptable. I support reasonable caps on punitive damages. However, the conference report allows a large number of businesses to be subject to an unreasonably low cap on punitive damages. In addition, an overall limit on \$250,000, or two times compensatory damages, is also too low. I and many of my colleagues had suggested a cap of \$500,000. I regret that the Conference Committee did not accept that recommendation.

The additur language was a good attempt to ease the impact of the punitive damage cap. It would allow a judge to award punitive damages above the cap if the judge determines the defendant's conduct was egregious. Although this provision is an improvement, it is subject to constitutional challenge, and would not apply to small business.

As I have indicated, I support many provisions in the conference report. However, there is much that I cannot support, including the preemption of States' rights, the statute of limitations, and lawsuit limits placed on victims of firearms violence.

I find particularly offensive the inclusion of negligent entrustment cases under the limits of this legislation. Sensible product liability reform should not subject cases involving gun or alcohol sales to minors to these new lower punitive damage limits or higher standards of proof.

Mr. Speaker, we can reform the legal system while still ensuring consumer protection. As a supporter of legal reform, I urge a "no"

vote on this conference report so that it can be sent back to conference for further consideration.

Mr. BILBRAY. Mr. Speaker, I rise in strong support of H.R. 956.

Because of unwarranted product litigation, medical device manufacturers are in danger of being denied access to essential raw materials for the production of life-saving technologies. An alarming number of suppliers are refusing to sell these raw products to the manufacturers, for fear of being joined in a liability suit against the manufacturer.

Mr. Speaker, a full 32 percent of the Nation's medical device manufacturers are headquartered in California. A great number of these are in my San Diego district. These companies make pacemakers, heart valves, and other implantable medical devices which improve the quality of life and ease the suffering of innumerable patients. These companies depend on patented alloys and synthetics, such as Teflon and synthetic polymers, to ensure that these devices will be compatible with the patients who need them.

Under current law, the suppliers of these raw materials can be liable in product liability actions brought against device manufacturers, even though they have no role in the production or sale of the finished devices. As a result, many suppliers have announced plans to limit or discontinue sales of these raw biomaterials to device companies. This would drastically restrict the ability to provide these innovative devices to people who desperately need them.

This bipartisan conference report will reform this tragic situation, by allowing suppliers to resume sales to cutting-edge California device manufacturers, and in turn ensure that patients nationwide retain access to state-of-the-art technologies. This is about people, Mr. Chairman, and doing what we can to make sure patients in need are provided relief from their afflictions and suffering.

Mr. Speaker, this is a fair and bipartisan reform package, and I urge my colleagues to support it. Let us send H.R. 956 to the President, with the knowledge that Californians who need this reform are watching, as is the entire Nation. A veto of this bill, as promised by the President and supported by the Trial Lawyers Association, would be tragic; however, it would clearly demonstrate to the American people where the priorities of this administration truly lie.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in opposition to the conference report on H.R. 956, the so-called Commonsense Product Liability Legal Reform Act. The only relation this bill has to common sense is that it takes just a little common sense to see that it is designed to protect big business at the expense of U.S. consumers.

It pulls the rug out from under U.S. consumers by applying unfair limitations on the means through which they can seek relief if hurt by a faulty product. It is puzzling that the party who has screamed about States' rights for the last year chooses to impose a Federal standard when it comes to limiting the rights of consumers. While this bill sets a Federal standard for product liability cases it allows States to retain their own laws only when it benefits big business. Specifically it requires States to adhere to the cap placed on punitive damages by this bill, but it does not require punitive damages in States that currently do not have punitive damages.

The arbitrary cap on punitive damages at \$250,000 or two times actual damages, which ever is greater, is based on highly inflammatory rhetoric about the explosion of unreasonable jury awards in product liability cases. Product liability cases make up less than 0.5 percent of all lawsuits in the Nation. Cases in which punitive damages were awarded are even fewer. In 1994, punitive damages were awarded in only 15 cases nationwide. And nearly 80 percent of these cases resulted in the withdrawal of the product, improved product design, or strengthened warnings. Punitive damages are meant to punish wrongful actions of manufacturers and to deter the future production of similar faulty products. A cap of \$250,000 is hardly a deterrent for a mega-corporation.

For smaller businesses the cap is the lesser of \$250,000 or two times actual damages. Utilizing a different standard for small business establishes a precedent that a person harmed by a small business is entitled to less, even though the loss, disfigurement, or pain is equal to or greater than an injury incurred by a product of a larger business.

Furthermore, the bill imposes a more difficult burden of proof in order for punitive damages to be awarded, further reducing the effectiveness of punitive damages as a deterrent. Punitive damages are allowed to be awarded only if the plaintiff proves clear and convincing evidence that the conduct of the defendant was a conscious flagrant indifference to the rights and safety.

The most offensive provision to me personally is the provision which discriminates against women, children, and the elderly by barring joint and several liability for noneconomic damages. Treating economic and noneconomic damages differently establishes a two-tiered system which hurts women, children and the elderly, who typically have damages not related to lost wages. Their damages are injury related and go to pain and suffering, disability and physical losses. Under this bill a high-paid corporate executive would recoup all of his economic, income, damages while a woman who stays home with her children, a person with little or no economic loss, would not. Equal justice should not be dependent on age, employment, and economic status.

The intent of this bill is to discriminate against women, children, and the elderly. Since women have been subject to so many faulty products and drugs, like DES, silicone breast implants, IUD's, and the Dalkon Shield, it is grossly unfair.

I am a DES mother who took this harmful drug. If this law had been in effect at the time of my lawsuit, it would have been very upsetting. My losses would not have qualified for access to joint and several liability. Such a bar to fair and equitable recovery is unconscionable. This bill must be defeated.

If we are going to move toward a national standard on product liability, let it be a fair standard. One that treats men and women the same, one that recognizes the value of noneconomic damages, one that applies fairly to all businesses, and one that does not arbitrarily limit punitive measures needed to curb the production of faulty products.

Mr. Speaker, I urge my colleagues to vote down this conference report.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of this measure and to express his pleasure that this legislation has advanced to this stage and is one step closer to becoming law.

This Member introduced the first product liability legislation in the Nebraska Unicameral Legislature in 1977. During this process this Member realized that this issue must be dealt with on the Federal level, because the vast majority of products and services move through interstate commerce. Addressing product liability at the State level is like patching 1 hole in a tire with 50 holes.

Mr. Speaker, all Americans are paying higher prices for consumer goods and services because this legislation has been delayed for so very long. The insurance costs incurred by companies protecting against and paying for outrageous product liability suits are passed along to the consumer each and every day, in each and every product and service purchased.

Perhaps even more outrageously, the current system unfairly imposes upon the American public product design standards, which are created in response to penalties awarded in a few States with the highest punitive and compensatory damages. Those States get to impose their juries' ideas of appropriate design and safety standards on the rest of the Nation. That is a perversion of federalism. National standards should be set by the national legislature. That is what this bill will do.

Mr. Speaker, this Member has been a long-time cosponsor of product liability reform, dating back to at least 1986 when this Member was an early cosponsor of registration introduced by his distinguished colleague, Mr. ROTH. This Member is pleased that this conference report is before the House for final approval and urges his colleagues to support it.

Mr. RAMSTAD. Mr. Speaker, as chair of the task force which crafted the legal reform plank of the Contract With America, I feel extremely gratified to see an important part of our efforts come so far in the process.

Although the reforms contained in the conference report are not as sweeping as those the House put forward last year, they are a vast improvement over the present legal system. Our present system results in higher prices for consumers, lost jobs, and stifled innovation.

I want to talk about a particular provision in this conference report which is more than just sound economic policy; it is sound health policy.

Over 11 million Americans rely on implanted medical technologies, ranging from artificial joints to complex mechanical devices such as cardiac defibrillators and drug infusion pumps.

Unfortunately, the spectre of product liability litigation has caused many raw material suppliers to restrict the use of their products in implanted medical devices. The lack of materials and components for these medical devices jeopardizes the well-being—and in some cases the very lives—of the millions of Americans who depend on these technologies.

The biomaterials access assurance provisions of H.R. 956 will help ensure that the threat of product liability litigation will not hurt patients who need access to implanted medical devices. H.R. 956 will prohibit claims against biomaterials supplier unless the company acted irresponsibly and its mistake actually caused the harm.

It is also important to note what the biomaterials access assurance provisions will not do. Nothing will reduce the amount of money to which a person injured by a defective implant is entitled. Device manufacturers will design suitability and performance specifications for the raw materials, certified by the FDA, and suppliers will continue to be liable when materials or components do not meet the specifications.

But suppliers will not be responsible when their products meet the manufacturer's specifications. In these circumstances, the manufacturers will be responsible for any product defect. This commonsense approach protects the rights of injured plaintiffs, but at the same time presents a biomaterials shortage our country just cannot afford.

I urge my colleagues to support this important bill.

Mr. BUYER. Mr. Speaker, I am pleased to support this legislation which will return common sense to our legal system as it applies to products. While these reforms do not go as far as I would like, they are essential to restoring balance to our legal system as we seek to protect consumers while providing predictability to manufacturers.

The bill establishes a 15-year limit on when a manufacturer may be held liable for its products. Product sellers will not be liable in cases where illegal drugs or alcohol contributed more than 50 percent toward the harm. In addition, producers will not be liable for the percentage of blame attributed to product misuse or alteration.

This measure makes clear that punitive damages should be awarded only in the most serious cases of egregious conduct. Punitive damage awards will be linked to the actual harm caused by allowing punitive damage awards of up to two times the compensatory damages or \$250,000, whichever is greater. There are special rules for individuals of limited net worth and to small businesses.

Liability for noneconomic damages will be several, rather than joint, making defendants liable only for their proportionate share of the fault. This addresses the deep pocket syndrome.

The bill also addresses the unique difficulty faced by biomedical device manufacturers. Medical device manufacturers are quickly losing suppliers of materials due to litigation. Huge awards are often sought from suppliers even though they had no role in the design, manufacture, or sale of a device. The courts are not finding suppliers liable, yet millions of dollars and countless hours are spent on defense in court. This bill will provide expedited dismissal against suppliers in court and they cannot be sued unless they are a manufacturer or a seller of devices and as long as they have abided by the contract and supply specifications of the manufacturer. Biomedical device manufacturers in Warsaw, IN, BIOMET, Zimmer, DePuy, and Danek, are producing the needed devices, pacemakers, heart valves, artificial blood vessels, hip and knee joints, that add so much to the quality of life for countless individuals.

There are so many small businesses in the Fifth District of Indiana that will be helped by this legislation. These businesses will be able to concentrate on product development and expansion rather than fighting lawsuits. One such company is Whallon Machinery of Royal Center, IN, which manufactures industrial ma-

terial handling machines. In nearly 30 years of business, over 83 percent of all machines built are still in use. Prior to 1993, Whallon had no product liability claims. One customer had modified a Whallon machine. Had this legislation been in place then, Whallon Machinery may not have faced a fourfold increase in insurance premiums.

It is time to return a sense of reasonableness to ensure that injured parties are compensated in a manner that protects all consumers and America's competitiveness. This legislation is a very good start.

Mr. COSTELLO. Mr. Speaker, I rise today in strong opposition to the product liability conference report. This bill effectively condones egregious misconduct, carelessness, and greed of manufacturers which produce and sell defective products. This bill makes it cost-effective for some companies to put profits ahead of safe products. In my opinion, Mr. Speaker, this is wrong. The unfortunate victims of the repercussions of this legislation are the American consumers.

I object to the provisions in this bill which arbitrarily limit the amount of punitive damages injured person may recoup when harmed by faulty or dangerous products. Punitive damages should serve as a deterrent to manufacturers who knowingly build and sell dangerous products. Punitive damages force companies to fix dangerous products. For example, punitive damages have been effective in making safer children's pajamas and baby cribs, automobiles, and medical devices. Without the threat of these large damage awards, manufacturers have an incentive to settle with individuals hurt by dangerous products rather than correcting their wrongs. We cannot actively condone and promote such unconscionable business practice.

Proponents of this legislation argue for the need to limit punitive damages to \$250,000 because without such caps juries have awarded ridiculously high punitive damage awards. This is simply not true. The National Center for State Courts reports that only 600 of the 1 million tort actions filed each year result in punitive damages. It should further be noted that most of those are reduced on appeal. It is easy to talk about the outrageous \$2.7 million award to the woman who was burned by the hot coffee at McDonald's. However, let us examine the facts. This grandmother had to undergo extensive skin grafts for her burns. McDonald's had ignored 700 prior complaints about too-hot coffee and, in fact, the judge reduced the punitive damage award to \$400,000. How many burns must it take to have a company change its harmful ways? The unfortunate fact remains that business usually comes down to dollars. Mr. Speaker, it cannot pay to make dangerous products. I urge my colleagues to defeat this bill.

Mrs. MEEK of Florida. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I strongly oppose the so-called Common Sense Product Liability Legal Reform Act.

There is no common sense in it.

What is the common sense of having Washington dictate to juries in each of the 50 States how to decide a case where someone has been injured by a dangerous product?

What is the common sense of having Washington dictate to the voters and State legislatures in each of the 50 States? The States are

acting. For example, in 1988 Florida's voters rejected, by a vote of 57 percent to 43 percent, an amendment to the constitution that would have arbitrarily capped noneconomic damages in all tort cases at \$100,000. Since 1986, 31 State legislatures have altered their product liability laws.

The Republican majority preaches federalism and returning power to the people. But its actions speak louder than its words. The Republican leadership wants to override what the States are doing because it does not like what the citizens of each State are deciding.

The Republican leadership preaches that individuals should be accountable for their actions. Why not apply the same standard to corporations that make and sell dangerous products?

Title II of this bill will prevent women who needlessly suffered from faulty breast implants from suing the company that negligently supplied the silicone gel. That is wrong.

Mr. Speaker, President Clinton is right when he said he will veto this bill. This conference report favors corporate profits over the health and safety of our citizens, and I urge my colleagues to vote against it.

Mr. KLECZKA. Mr. Speaker, I rise in opposition to the conference report on H.R. 956, product liability reform.

Last March, I voted in favor of this legislation because I believed there were problems in our product liability system which needed to be addressed. We have all heard stories of excessive awards, or juries granting vastly different awards for similar injuries. However, the conference report before us today and recent congressional action radically shift the balance against the consumers.

To get a better understanding how this new version of product liability reform would affect the buying public, I met with Mary Griffin from Consumers Union. She discussed with me a number of the conference report's provisions which would adversely impact consumers, including the 15-year statute of repose, pre-emption of State laws more favorable to plaintiffs, the combined effect of the bill and other deregulatory efforts, and the 2-year statute of limitations on filing lawsuits.

This legislation contains a number of provisions which, in my judgment, would place unreasonable restrictions on individuals' ability to receive compensation for injuries caused by faulty products. Taken together, these provisions cause the product liability system to tilt dramatically against consumers.

The bill establishes a false and unfair distinction between individuals and corporations by limiting the ability of the individual to collect damages in product liability cases. For example, the statute of repose is set at 15 years for durable products like heavy machinery and elevators. If a defective product is more than 15 years old, an individual may not sue the manufacturer for injuries the product caused. Companies, however, could still go to court to recover damages. As a result, if a 16-year-old defective furnace explodes in a factory and kills a worker, that individual's family cannot sue the furnace manufacturer. The employer, however, is still permitted to take the furnace company to court to collect compensation for lost production, repairs, and so on.

The State pre-emption provisions of the conference report also trouble me deeply. State laws more favorable to consumers, such as higher or unlimited punitive damages, are

pre-empted by this bill. At the same time, if the State standards are stricter, they are allowed to stand. This position is ironic to me given the current mood of Congress in returning authority to the States. Evidently, the congressional leadership is not confident that States will protect big business sufficiently. Under this legislation, companies would not have to go to the trouble of venue-shopping; Congress simply guarantees them the best possible deal. These pre-emption provisions have earned the bill the opposition of the National Conference of State Legislatures, the Conference of Chief Justices, Mothers Against Drunk Driving, and many other groups.

I am troubled by the apparent link between this product liability reform bill and the current congressional efforts toward deregulation. Congress is cutting the budgets of agencies like the Occupational Safety and Health Administration and the Consumer Product Safety Commission, which are responsible for overseeing the safety of products in the workplace and the home. It simply does not make sense to cut government safety oversight and, at the same time, slam the courthouse door on consumers who are injured by defective products.

Finally, I must object to the 2-year statute of limitations inserted by the conference committee. Under this provision, a person must file a lawsuit within 2 years of discovering their injury. Mr. Speaker, many of the ailments caused by these injuries are progressive in nature, developing over time. A person cannot possibly file a lawsuit when they have no idea how their condition may progress and what sort of medical treatment they may require in the future.

For these reasons, I cannot support the conference report on H.R. 956. I urge my colleagues to vote "no" on this legislation.

Mr. PALLONE. Mr. Speaker, I am strongly opposed to H.R. 956, the so-called Common Sense Product Liability Legal Reform Act.

H.R. 956 would pre-empt State law to require a \$250,000 cap on punitive damage awards. Punitive damages are not compensation to a victim—through they serve that purpose—they are intended as punishment to businesses that are negligent. Punitive damage awards serve as a deterrent to bad actors in the market place who put explosive water heaters or automobiles on the market. It forces companies to be very careful and it forces them not to cut corners in an attempt to make a few dollars more.

It does not take a degree in math to realize that a \$250,000 punitive damage award is hardly a deterrent to negligent Fortune 500 companies that rake in hundreds of millions or even billions of dollars each year. In fact, what this fixed figure does is allow companies to carefully calculate the costs and benefits of being negligent. Right now, because punitive damage awards are uncertain, the maker of a gas heater that has a faulty valve has no idea how much the company will lose as a result of successful suits against its faulty product. But under this bill, all that manufacturer would have to do is figure out how many of those heaters will explode, multiply by \$250,000 and then compare that with expected profits. If profits outweigh damage awards, then you can bet that that deadly product will be out on the market.

This bill also does not contain language that I and 257 of my colleagues supported to hold

foreign manufacturers to at least the same silly standards in this bill. So if you lose your sight, or your arms, or your children because of some negligent U.S. manufacturer, you can take some solace in the fact that you will get limited compensation, and the manufacturer will have to pay a little bit of money for being bad. But, if you lose a family member or your legs as a result of some faulty product from a foreign manufacturer, you get nothing. That company gets away scot-free, because H.R. 956 gives foreign manufacturers a free ride on the health, safety, and welfare of American consumers.

I also find it ironic that Republicans—who have harped on the issue of States rights for many years—have put together a bill that tramples on States rights. Currently, States enjoy the right to impose either ceilings or floors on punitive damages; however, this legislation would impose a ceiling while still allowing States to enact even lower damage caps. A similar situation exists with regard to the statute of repose which is capped at 15 years. In addition, a provision was recently added to the bill that would pre-empt the law in numerous States governing the liability of certain utilities, including gas pipelines.

The truth is time after time in this Congress, Republicans have put special corporate interests ahead of the needs of the average American. That is why I wrote to the President recently urging him to veto H.R. 956, and I ask that the text of my letter be made part of the RECORD.

This is just the latest in a series of efforts to undermine consumer protection at the expense of the health and safety of the average American. This undermining of American health and safety law represents a sea change from the consensus that reigned here for many years. But things have changed, and they have changed for the worse.

For example, early in the year, we passed a risk assessment bill that, if enacted, would have effectively repealed current statutory and regulatory standards designed to protect health, safety, and the environment. That bill contained language that in a mindless, sweeping way, would have wiped away decades of work done by Congress, and by State and Federal courts.

And just today, as we were considering H.R. 965, Republicans were telling us that the Consumer Product Safety Commission—which each year helps prevent millions of injuries due to negligent manufacturers or faulty products—had outlived its usefulness because the people were well protected by our Nation's product liability laws.

Mr. Speaker, we need to ensure public safety. We need to protect small children. But what we do not need is the H.R. 956 the corporate dollars and sense Product Liability Reform Act. I am sure the President will veto, and I hope my colleagues will sustain his veto and stop Republicans from gutting consumer protections for the benefit of corporate special interests.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 25, 1996.

Hon. WILLIAM J. CLINTON,
President of the United States,
Washington, DC.

DEAR PRESIDENT CLINTON: I am writing in support of your announced intention to veto H.R. 956, the Common Sense Product Liability Legal Reform Act.

H.R. 956 would pre-empt state law to require a \$250,000 cap on punitive damage

awards. Currently, states enjoy the right to impose either ceilings or floors on punitive damages; however, this legislation would impose a ceiling while still allowing states to enact even lower damage caps. A similar situation exists with regard to the statute of repose which is capped at 15 years. In addition, a provision was recently added to the bill that would pre-empt the law in numerous states governing the liability of certain utilities, including gas pipelines.

Also, it is clear that the threat of a \$250,000 penalty is not a sufficient deterrent to irresponsible behavior in many instances. Nor is it adequate punishment for conduct that results in death or serious injury such as the loss of a limb. Coupled with the legislation's elimination of joint-and-several liability for noneconomic damages, this bill, if enacted, would definitively tip the balance against consumers and in favor of those who manufacture and market defective products.

Finally, it is important to note that this legislation is not being considered in a vacuum. The Republican majority in Congress continues to attack public health, safety and consumer protection laws both through the authorization process and by underfunding the agencies that enforce those laws. Enactment of extreme legislation, like H.R. 956, taken together with these other efforts will surely threaten the health, safety and well being of all Americans.

For these reasons, I urge you to veto H.R. 956.

Sincerely,

FRANK PALLONE, Jr.,
Member of Congress.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 259, nays 158, not voting 14, as follows:

[Roll No. 110]

YEAS—259

| | | |
|--------------|--------------|------------|
| Allard | Bryant (TN) | Crapo |
| Archer | Bunn | Creameans |
| Army | Bunning | Cubin |
| Bachus | Burr | Cunningham |
| Baker (CA) | Burton | Davis |
| Baker (LA) | Buyer | Deal |
| Ballenger | Callahan | DeLay |
| Barcia | Calvert | Dickey |
| Barr | Camp | Dingell |
| Barrett (NE) | Campbell | Dooley |
| Bartlett | Canady | Doolittle |
| Barton | Castle | Dornan |
| Bass | Chabot | Drier |
| Bateman | Chambless | Duncan |
| Bereuter | Chenoweth | Dunn |
| Bilbray | Christensen | Edwards |
| Bilirakis | Chrysler | Ehlers |
| Bliley | Clement | Ehrlich |
| Blute | Clinger | Emerson |
| Boehlert | Coburn | English |
| Boehner | Collins (GA) | Ensign |
| Bonilla | Combest | Everett |
| Bono | Condit | Ewing |
| Boucher | Cooley | Fawell |
| Brewster | Cox | Flanagan |
| Browder | Cramer | Foley |
| Brownback | Crane | Forbes |

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|---------------|---------------|---------------|---------------|------------|-------------|
| Fox | Latham | Rogers | Owens | Sanders | Towns |
| Franks (CT) | LaTourette | Rohrabacher | Pallone | Sawyer | Traficant |
| Franks (NJ) | Laughlin | Ros-Lehtinen | Pastor | Schroeder | Velazquez |
| Frelinghuysen | Lazio | Roth | Payne (NJ) | Schumer | Vento |
| Frisa | Leach | Roukema | Pelosi | Scott | Visclosky |
| Funderburk | Lewis (CA) | Royce | Pickett | Serrano | Volkmer |
| Galleghy | Lewis (KY) | Salmon | Pomeroy | Skaggs | Ward |
| Ganske | Lightfoot | Sanford | Poshard | Skelton | Waters |
| Gekas | Lincoln | Saxton | Rahall | Stark | Watt (NC) |
| Geran | Linder | Scarborough | Rangel | Studds | Waxman |
| Gilchrest | Livingston | Schaefer | Richardson | Stupak | Williams |
| Gillmor | LoBiondo | Schiff | Rivers | Tejeda | Wilson |
| Goodlatte | Longley | Seastrand | Rose | Thompson | Wise |
| Goodling | Lucas | Sensenbrenner | Roybal-Allard | Thornton | Woolsey |
| Gordon | Manzullo | Shadegg | Rush | Thurman | Wynn |
| Goss | McCollum | Shaw | Sabo | Torricelli | Yates |
| Graham | McCrery | Shays | | | |
| Greenwood | McDade | Shuster | | | |
| Gunderson | McHugh | Sisisky | | | |
| Gutknecht | McInnis | Skeen | Bryant (TX) | Ford | Stokes |
| Hall (OH) | McIntosh | Slaughter | Collins (IL) | Fowler | Torres |
| Hall (TX) | McKeon | Smith (MI) | de la Garza | Hayes | Weldon (PA) |
| Hamilton | Metcalf | Smith (NJ) | Eshoo | McNulty | Weller |
| Hancock | Meyers | Smith (WA) | Fields (TX) | Smith (TX) | |
| Hansen | Mica | Solomon | | | |
| Harman | Miller (FL) | Souder | | | |
| Hastert | Minge | Spence | | | |
| Hastings (WA) | Molinary | Spratt | | | |
| Hayworth | Montgomery | Stearns | | | |
| Hefley | Moorhead | Stenholm | | | |
| Hefner | Moran | Stockman | | | |
| Heineman | Morella | Stump | | | |
| Herger | Myers | Talent | | | |
| Hilleary | Myrick | Tanner | | | |
| Hobson | Nethercutt | Tate | | | |
| Hoekstra | Neumann | Tauzin | | | |
| Hoke | Ney | Taylor (MS) | | | |
| Holden | Norwood | Taylor (NC) | | | |
| Horn | Nussle | Thomas | | | |
| Hostettler | Oxley | Thornberry | | | |
| Houghton | Packard | Tiaht | | | |
| Hunter | Parker | Torkildsen | | | |
| Hutchinson | Paxon | Upton | | | |
| Hyde | Payne (VA) | Vucanovich | | | |
| Inglis | Peterson (FL) | Waldholtz | | | |
| Istook | Peterson (MN) | Walker | | | |
| Johnson (CT) | Petri | Walsh | | | |
| Johnson, Sam | Pombo | Wamp | | | |
| Jones | Porter | Watts (OK) | | | |
| Kaptur | Portman | Weldon (FL) | | | |
| Kasich | Pryce | White | | | |
| Kelly | Quillen | Whitfield | | | |
| Kennelly | Quinn | Wicker | | | |
| Kim | Radanovich | Wolf | | | |
| Kingston | Ramstad | Young (AK) | | | |
| Klug | Reed | Young (FL) | | | |
| Knollenberg | Regula | Zeliff | | | |
| Kolbe | Riggs | Zimmer | | | |
| LaHood | Roberts | | | | |
| Largent | Roemer | | | | |

NAYS—158

| | | |
|--------------|----------------|-------------|
| Abercrombie | Doyle | King |
| Ackerman | Durbin | Kleccka |
| Andrews | Engel | Klink |
| Baesler | Evans | LaFalce |
| Baldacci | Farr | Lantos |
| Barrett (WI) | Fattah | Levin |
| Becerra | Fazio | Lewis (GA) |
| Beilenson | Fields (LA) | Lipinski |
| Bentsen | Filner | Lofgren |
| Berman | Flake | Lowey |
| Bevill | Foglietta | Luther |
| Bishop | Frank (MA) | Maloney |
| Bonior | Frost | Manton |
| Borski | Furse | Markey |
| Brown (CA) | Gejdenson | Martinez |
| Brown (FL) | Gephardt | Martini |
| Brown (OH) | Gibbons | Mascara |
| Cardin | Gilman | Matsui |
| Chapman | Gonzalez | McCarthy |
| Clay | Green | McDermott |
| Clayton | Gutierrez | McHale |
| Clyburn | Hastings (FL) | McKinney |
| Coble | Hilliard | Meehan |
| Coleman | Hinchev | Meek |
| Collins (MI) | Hoyer | Menendez |
| Conyers | Jackson (IL) | Miller (CA) |
| Costello | Jackson-Lee | Mink |
| Coyne | (TX) | Moakley |
| Danner | Jacobs | Mollohan |
| DeFazio | Jefferson | Murtha |
| DeLauro | Johnson (SD) | Nadler |
| Dellums | Johnson, E. B. | Neal |
| Deutsch | Johnston | Oberstar |
| Diaz-Balart | Kanjorski | Obey |
| Dicks | Kennedy (MA) | Olver |
| Dixon | Kennedy (RI) | Ortiz |
| Doggett | Kildee | Orton |

| | | |
|---------------|------------|-----------|
| Owens | Sanders | Towns |
| Pallone | Sawyer | Traficant |
| Pastor | Schroeder | Velazquez |
| Payne (NJ) | Schumer | Vento |
| Pelosi | Scott | Visclosky |
| Pickett | Serrano | Volkmer |
| Pomeroy | Skaggs | Ward |
| Poshard | Skelton | Waters |
| Rahall | Stark | Watt (NC) |
| Rangel | Studds | Waxman |
| Richardson | Stupak | Williams |
| Rivers | Tejeda | Wilson |
| Rose | Thompson | Wise |
| Roybal-Allard | Thornton | Woolsey |
| Rush | Thurman | Wynn |
| Sabo | Torricelli | Yates |

NOT VOTING—14

| | | |
|--------------|------------|-------------|
| Bryant (TX) | Ford | Stokes |
| Collins (IL) | Fowler | Torres |
| de la Garza | Hayes | Weldon (PA) |
| Eshoo | McNulty | Weller |
| Fields (TX) | Smith (TX) | |

□ 1343

The Clerk announced the following pair:

On this vote:

Mrs. Fowler for, with Mrs. Collins of Illinois against.

Mr. EDWARDS changed his vote from "nay" to "yea."

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, pursuant to the order of the House, I call up the joint resolution (H.J. Res. 170) making further continuing appropriations for the fiscal year 1996, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. RES. 170

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 104-99 is further amended by striking out "March 29, 1996" in sections 106(c), 112, 126(c), 202(c) and 214 and inserting in lieu thereof "April 24, 1996"; and that Public Law 104-92 is further amended by striking out "April 3, 1996" in section 106(c) and inserting in lieu thereof "April 24, 1996" and by inserting in Title IV in the matter before section 401 "out of any money in the Treasury not otherwise appropriated, and" before "out of the general fund"; and that section 347(b)(3) of Public Law 104-50 is amended to read as follows:

"(3) chapter 71, relating to labor-management relations; and that section 204(a) of the Auburn Indian Restoration Act (25 U.S.C. 1300-2(a)) is amended by striking "shall" in the first sentence and inserting in lieu thereof "may".

SEC. 2. That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, and for other purposes, namely:

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

FUNDS APPROPRIATED TO THE PRESIDENT, AGENCY FOR INTERNATIONAL DEVELOPMENT

Assistance for Eastern Europe and the Baltic States

(Including Transfers of Funds)

For an additional amount for "Assistance for Eastern Europe and the Baltic States" for Bosnia and Herzegovina, including demining assistance, \$198,000,000: Provided,

That of the funds appropriated under this heading by this Act that are made available for the economic revitalization program in Bosnia and Herzegovina, not less than 87.5 percent shall be obligated and expended for programs, projects, and activities, within the sector assigned to American forces of the military Implementation Force (IFOR) established by the North Atlantic Council pursuant to the General Framework Agreement for Peace in Bosnia and Herzegovina and within the Sarajevo area: Provided further, That the preceding proviso shall not apply to any project that involves activities in both the American IFOR sector and other contiguous sectors: Provided further, That priority consideration should be given to projects and activities designated in the IFOR "Task Force Eagle civil military project list" in making available funds for the economic revitalization program: Provided further, That none of the funds appropriated under this heading by this Act shall be made available for the construction of new housing or residences in Bosnia and Herzegovina: Provided further, That none of the funds appropriated under this heading by this Act or under this heading in Public Law 104-107 may be made available for the purposes of repairing housing in areas where refugees or displaced persons are refused, by Federation or local authorities, the right of return due to ethnicity or political party affiliation: Provided further, That not to exceed \$5,000,000 may be transferred to "Debt Restructuring" to be made available only for the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and loan guarantees, notwithstanding any other provision of law: Provided further, That \$3,000,000 shall be transferred to "Operating Expenses of the Agency for International Development" for administrative expenses: Provided further, That the additional amount appropriated or otherwise made available herein is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the provisions of section 515 of Public Law 104-107, and any similar provision of law requiring advance notification to the Congress, shall be applicable to funds appropriated under this heading, except that the requirements of those provisions shall be satisfied by notification five days in advance of the obligation of such funds: Provided further, That, effective ninety days after the date of enactment of this Act, none of the funds appropriated under this heading by this Act may be made available for the purposes of economic revitalization in Bosnia and Herzegovina unless the President determines and certifies in writing to the Committees on Appropriations that the aggregate bilateral contributions pledged by non-United States donors for economic revitalization are at least equivalent to the United States bilateral contributions for economic revitalization made by this Act and in Public Law 104-107: Provided further, That 50 percent of the funds appropriated under this heading by this Act that are made available for economic revitalization shall not be available for obligation unless the President determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has complied with article III of Annex I-A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related activities between Iranian officials and Bosnian officials has been terminated: Provided further, That funds withheld from obligation pursuant to the previous proviso may

be made available for obligation and expenditure after June 15, 1996, notwithstanding the previous proviso if the President determines and reports to the Committees on Appropriations that it is important to the national security interest of the United States to do so: Provided further, That the authority contained in the previous proviso to make such a determination may be exercised by the President only and may not be delegated: Provided further, That with regard to funds appropriated under this heading by this Act (and local currencies generated by such funds) that are made available for economic revitalization, the Administrator of the Agency for International Development shall provide written approval for grants and loans prior to the obligation and expenditure of funds for such purposes, and the Administrator shall receive the agreement of grantees that such funds shall be subject to audits by the Inspector General of the Agency for International Development: Provided further, That with regard to funds appropriated under this heading by this Act (and local currencies generated by such funds) that are made available for economic revitalization, the Administrator of the Agency for International Development shall provide written approval for the use of funds that have been returned or repaid to any lending facility and grantee under the economic revitalization program prior to the use of such returned or repaid funds: Provided further, That, notwithstanding any provision of law under this heading in Public Law 104-107, the provisions of section 532 of that Act shall be applicable to funds appropriated under this heading that are used under the economic revitalization program and to local currencies generated by such funds: Provided further, That such local currencies may be used only for program purposes: Provided further, That for the purposes of this Act, local currency generations under the economic revitalization program shall include the conversion of funds appropriated under this heading into currency used by Bosnia and Herzegovina as local currency and local currency returned or repaid under such program.

The SPEAKER pro tempore (Mr. GUTKNECHT). Pursuant to the order of the House today, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] will each control 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 170, and that I may include tabular and extraneous material.

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

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 5 minutes.

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

Mr. LIVINGSTON. Mr. Speaker, I had hoped to stand before the House today and ask for the opportunity to present the final solution, if you will, for fiscal year 1996, the wrap-up bill, the omnibus bill, the bill that has plagued this House for the last 6 months. Unfortunately, that was not to be the case.

However, I am very pleased to tell the Speaker and our colleagues that we are really within hours of presenting that solution. Unfortunately, we cannot complete it before we go on break for the district work period. Therefore, Mr. Speaker, we have to come back in a few days after the recess and complete our business. In fact, I really do not think it will take very long. Assuming our leadership continues to work with the White House, and we get cooperation from all parties, we should be able to conclude the mighty bill.

The fact is most of the issues in the remaining appropriations bills have been resolved, but there are still a few of them that are uncompleted. We also have not quite resolved both the payment of the funding level for those bills and the "paid fors" anything that exceeds the House budget levels.

We are still working on offsets; we are still working on such problems as the HIV issue within the national security bill; the abortion issue within the foreign operations bill, ergonomics, and various other isolated issues. I want to compliment all of the conferees in both House and Senate, Republican and Democrat, Mr. Speaker, for pitching in, shoulder to shoulder, over the last few days and working diligently in the hopes that we could finalize our negotiations by this time today. It was not to be, but it was not for lack of a conscientious bipartisan effort. I am deeply grateful to all of the Members for pitching in.

Since that is the case, Mr. Speaker, I am compelled and pleased to present to the House the current bill, which extends all of the current continuing resolutions and all of the appropriations bills that are contained within those continuing resolutions, through April 24.

Tomorrow, Members will go back to their districts to hold town meetings, make appearances, and spend time with their families. This may be a change from the last few weeks, but the fact is that by the time they return, there will only be 6 legislative days before the end of the this current continuing resolution we're presenting to the House today.

Mr. Speaker, this bill also provides four separate items which we feel are of such an emergency status that we must address them. The first provides a full year Federal payment to the District of Columbia, of without which the District of Columbia would collapse and cease to function. Second, it appropriates \$198 million for Bosnia and Herzegovina for economic revitalization, money that is needed today. It is needed with most urgency in order to help our troops complete their tasks and pull out of that troubled region. These funds would have been included in the conference agreement on H.R. 3019, but because of the urgent need, they are being advanced in this resolution.

Then, really, there are only two technical provisions. One amends the fiscal

year 1996 Transportation Appropriation Act to clarify FAA personnel reforms, and the other simply amends the Auburn Indian Restoration Act to create discretionary authority for the Secretary of the Interior to accept lands into trust status on behalf of the tribe. These two items are technical in nature, and meet bipartisan consensus, and there is no objection to them.

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

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

Mr. Speaker, let me simply say that I am extremely disappointed that once again we are having to fund government on a stop-and-go basis, with yet, I believe, the 12th or 13th, maybe it is lucky 13, 13th CR or continuing resolution for this fiscal year.

I am extremely disappointed that more progress was not made this week in finishing action on the entire set of appropriation matters for the remainder of the fiscal year. What the situation is, is basically this: The Senate, in a constructive move, moved this process much closer to a possible White House signature by the changes that they made in the House appropriation bills when they were before the Senate, but as the White House has made quite clear, much as they welcome that movement in the Senate, they still require some additional movement in order to achieve a bipartisan compromise.

It is not just enough for the Members of the House to reach agreement with the Members of the Senate, or for Members of one party in the House to reach agreement with the Members of their party in the Senate. We also have to reach agreement between the leadership of the Congress and the leadership of the executive branch, which means the President of the United States. He has indicated he still is considerably concerned about remaining insufficiencies, especially in the area of education, worker training, and environmental protection.

So I think, Mr. Speaker, we will be focusing on those issues very firmly over the next 2 weeks. Meanwhile, the committee has again brought a short-term continuing resolution to the floor. This resolution is, regrettably, and in my view unnecessarily restrictive in terms of the funding levels that it provides for a number of areas, most especially including programs like chapter 1; and we know that we have some 40,000 school districts who are facing the prospect of having to lay off teachers if this is not resolved. That is why this must be resolved. But we are not quite there yet. I think we are moving a bit closer, but it is really going to require earnest negotiations over the next 2 weeks in order to put this matter to bed for the remainder of the fiscal year.

Let me simply say, Mr. Speaker, I know Members what to get out of here. I regret very much the fact that this resolution has such a restricted fund-

ing level, especially in the area of education, as I have said, but that is what we have before us. I would simply say that it is my determination to pursue every possible avenue of compromise over the next 2 weeks, so we can get the matter resolved. I thank the chairman of the committee for his assistance in dealing with issues on which we both agree and disagree.

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

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

I would just simply urge all our Members, Mr. Speaker, to keep the Government open, support this resolution, and have a happy Easter; and notice how I said that: Have a very happy Easter.

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

The SPEAKER pro tempore. Pursuant to the order of the House of today, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WELCOME TO WASHINGTON'S NEWEST REPUBLICAN, WILLIAM HANNA BOGER IV

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

Mr. CRAPO. Mr. Speaker, I rise today to welcome to Washington the Nation's newest Republican, William Hanna Boger IV. William was born Tuesday, March 26 at 8:24 a.m., was 20 inches long and weighed 7 pounds, 7 ounces.

His proud parents are my executive assistant, Dorothy S. Boger of Morrow, LA and her husband William, of Columbus, OH, partner at the law firm of Wilkinson, Barker, Knauer and Quinn and a former staffer of my good friend BOB LIVINGSTON.

Although he was immediately registered as a Republican for the 2014 elections his parents extend their thanks to their friends on both sides of the aisle for the many expressions of support they received over the last few days.

Congratulations, Dorothy, Bill, and little Billy.

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

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

Mr. HOYER. Mr. Speaker, would the child like some counseling about this registration, before he takes this very serious step?

Mr. CRAPO. Mr. Speaker, I would tell the gentleman, I would offer that to his parents, but I will tell him, I think I am in a good position, and I

will provide that counseling, if he does not mind.

Mr. HOYER. Congratulations to the family.

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM FRIDAY, MARCH 29, 1996, TO MONDAY, APRIL 15, 1996, AND ADJOURNMENT OR RECESS OF THE SENATE FROM FRIDAY, MARCH 29, 1996, OR THEREAFTER, TO MONDAY, APRIL 15, 1996

Mr. ARMEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 157) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 157

Resolved by the House of Representatives (the Senate concurring). That when the House adjourns on the legislative day of Friday, March 29, 1996, it stand adjourned until 12:30 p.m. on Monday, April 15, 1996, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Friday, March 29, 1996, Saturday, March 30, 1996, or Sunday, March 31, 1996, pursuant to a motion made by the Majority Leader or his designee in accordance with this resolution, it stand recessed or adjourned until noon on Monday, April 15, 1996, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1400

ELECTION OF MEMBER TO COMMITTEE ON WAYS AND MEANS

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 397) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 397

Resolved, that the following named Member be, and he is hereby, elected to the following standing committee of the House of Representatives:

Committee on Ways and Means: Mr. HAYES of Louisiana, to rank following Mr. PORTMAN of Ohio.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

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

Mr. HOYER. Mr. Speaker, I yield to the gentleman from Texas [Mr. ARMEY], the majority leader, for the purpose of inquiring of the schedule for when we are coming back and what the majority perceives to be the business as we come back.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Speaker, this marks the last vote for the day and the beginning of the April district work period. As the adjournment resolution indicated, we will be back on April 15, and we expect to have votes after 5 p.m. on Monday, April 15. We would at that time be taking up for consideration H.J. Res. 159, proposed constitutional amendment to require a two-thirds vote to raise taxes, the taxpayer bill of rights; and H.R. 842, to provide off-budget treatment for transportation trust funds, both subject to a rule. During the course of that week we would consider these items. Of course, conference reports, if they are available. We would expect to be out by 6 p.m. on Thursday, with no votes on Friday.

I should also mention we will have some suspensions which we will make available to both the minority and majority Members on the first day back.

Mr. HOYER. I thank the majority leader and wish he and his colleagues the very best and hope that as we come back, we will come back to a productive session, particularly as it relates to getting the business of the CR completed and moving on to the budget for the coming fiscal year.

Mr. ARMEY. If the gentleman would yield again.

Mr. HOYER. I yield to my friend from Texas.

Mr. ARMEY. It has been my privilege to work with and to observe the extraordinarily hard work that has been put out by Members from both sides of the aisle, from both parties, on the appropriations process these past couple of weeks. I think we can all, the entire body can be proud of all of these Members for their willingness to work on that, and the effort made by the staff as well. I have every confidence that we will be able to come back in 2 weeks and see some renewed effort that will be fruitful.

Mr. HOYER. I thank the gentleman for his comments and wish him well.

PERMISSION FOR MEMBERS TO
EXTEND THEIR REMARKS IN
THE RECORD FOR TODAY

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that for today all Members be permitted to extend their remarks and to include extraneous material in that section of the RECORD entitled "Extension of Remarks."

The SPEAKER pro tempore (Mr. GUTKNECHT). Is there objection to the request to the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER AND
MINORITY LEADER TO ACCEPT
RESIGNATIONS AND MAKE AP-
POINTMENTS, NOTWITHSTAND-
ING ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Monday, April 15, 1996, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

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

There was no objection.

DISPENSING WITH CALENDAR
WEDNESDAY BUSINESS ON
WEDNESDAY, APRIL 17, 1996

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule be dispensed with on Wednesday, April 17, 1996.

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

There was no objection.

DESIGNATION OF THE HONORABLE
BILL EMERSON TO ACT AS
SPEAKER PRO TEMPORE TO
SIGN ENROLLED BILLS AND
JOINT RESOLUTIONS THROUGH
APRIL 15, 1996

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 29, 1996.

I hereby designate the Honorable BILL EMERSON to act as Speaker pro tempore to sign enrolled bills and joint resolutions through Monday, April 15, 1996.

NEWT GINGRICH,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objections, the designation is agreed to.

There was no objection.

COMMUNICATION OF THE HONOR-
ABLE KENNETH E. BENTSEN, JR.,
MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable KENNETH E. BENTSEN, Jr., Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 26, 1996.

Hon. NEWT GINGRICH,
*Speaker of the House, House of Representatives,
The Capitol, Washington, DC.*

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the United States District Court for the District of Columbia. This subpoena relates to her employment by a former Member of the House.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and procedures of the House.

With kindest personal regards,
Sincerely,

KENNETH E. BENTSEN, JR.,
Member of Congress.

UNITED STATES ON SLIPPERY
SLOPE TOWARD EXTENDED DE-
PLOYMENT

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

Mr. SKELTON. Mr. Speaker, this is the fourth in a series of speeches I am giving on the status of the NATO peacekeeping mission in Bosnia.

Our troops continue to do an outstanding job. They are fully deployed. They are completing tasks according to schedule, although not always under optimum circumstances.

However, I have concerns about three conditions that may cause us to stay in Bosnia past our scheduled departure at the end of 1996. I outlined these three concerns in a letter I sent to the President this morning. I will place the letter into the RECORD at the end of my remarks.

First, the March 21 edition of the New York Times reported the United States and NATO are being urged to keep our forces in Bosnia after the end of the year. International civilian and military authorities are alleged to be pressing for continued NATO presence beyond our scheduled departure.

To keep American troops in Bosnia past the end of 1996 would be a major mistake. It flies in the face of a clear statement by Secretary of State Warren Christopher, who said:

This is not a permanent commitment. This is approximately a 1-year commitment. If it can't be done in a year, perhaps it can't be done in a longer period of time.

Staying in Bosnia breaks faith with our American troops who are presently stationed in Bosnia, who expect to return to their families in 9 months. It also contradicts what the American people were told about the duration of the mission.

American forces are facing a difficult and challenging assignment in the NATO peacekeeping mission. The 1-year deployment was intended to provide an opportunity for peace, not a guarantee of it. The people of Bosnia must assume the responsibility of ensuring their own peace.

Second, American and NATO peacekeepers are being diverted from their original mission to the task of rebuilding Bosnia. This assignment shifts the focus of our military forces from peacekeeping to assisting in civil projects.

Third, and finally, by several accounts, a cornerstone of the Dayton agreement—the continuance of the Muslim-Croat federation—appears severely weakened. The U.S. and NATO could well be in a quandary if that alliance should crumble.

The push to keep United States and NATO forces in Bosnia, the expansion

of mission assignments and the possible disintegration of the Muslim-Croat federation could compel us to extend our commitment in Bosnia. We are on a slippery slope toward a lengthy deployment of 5 or even 10 additional years.

Another issue that concerns me is the continued presence of Iranians in Bosnia who are training Bosnian Government soldiers. This is a clear violation of the Dayton peace agreement. Their presence also poses a threat to the safety of our troops, as some of these groups are opposed to our peacekeeping effort.

I commend Maj. Gen. William L. Nash, commander of the American sector of NATO forces in Bosnia, who stressed his determination to withdraw on schedule. He properly stated that the burden for peace is "on the shoulders of those folks that live here."

If the people of Bosnia truly want peace, 1 year is more than enough time to get it started.

Mr. Speaker, I urge the President to stick by the commitment and have our American troops home by Christmas.

Mr. Speaker, I ask to include a copy of my letter to the President in the RECORD at this point.

The letter referred to is as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 28, 1996.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The March 21 edition of the New York Times reported the U.S. and NATO are being urged to keep our forces in Bosnia after the end of the year. International civilian and military authorities are alleged to be pressing for continued NATO presence beyond our scheduled departure.

To keep American troops in Bosnia past the announced date of departure at the end of 1996 would be a major mistake. First, it flies in the face of a clear statement by Secretary of State Warren Christopher: "This is not a permanent commitment. This is approximately a one-year commitment. . . . If it can't be done in a year, perhaps it can't be done in a longer period of time." Second, it breaks faith with our American troops who are presently stationed in Bosnia, who expect to return to their families in nine months. Third, it contradicts what the American people were told about the duration of the mission.

American forces are facing a difficult and challenging assignment in the NATO peacekeeping mission. The one-year deployment was intended to provide an opportunity for peace, not a guarantee of it. The people of Bosnia must assume the responsibility of ensuring their own peace.

Already, American and NATO peacekeepers are being diverted from their original mission to the task of rebuilding Bosnia. This assignment shifts the focus of our military forces from peacekeeping to assisting in civil projects.

Further, by several accounts, a cornerstone of the Dayton agreement—the continuance of the Muslim-Croat Federation—appears severely weakened. The U.S. and NATO could well be in a quandary if that alliance should crumble.

The push to keep U.S. and NATO forces in Bosnia, the expansion of mission assignments and the possible disintegration of the Muslim-Croat Federation could compel us to

extend our commitment in Bosnia. We are on a slippery slope toward a lengthy deployment of five or even ten additional years.

I commend Major General William L. Nash, Commander of the American sector of NATO forces in Bosnia, who stressed his determination to withdraw on schedule. He properly stated that the burden for peace is "on the shoulders of those folks that live here."

Mr. President, if the people of Bosnia truly want peace, one year is more than enough time to get it started.

Very truly yours,

IKE SKELTON,
Member of Congress.

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 Arizona [Mr. SHADEGG] is recognized for 5 minutes.

[Mr. SHADEGG addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 5 minutes.

[Mr. FALEOMAVAEGA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

[Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GENE GREEN] is recognized for 5 minutes.

[Mr. GENE GREEN of Texas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

[Mrs. SCHROEDER addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wyoming [Mrs. CUBIN] is recognized for 5 minutes.

[Mrs. CUBIN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Georgia [Mr. NORWOOD] is recognized for 5 minutes.

[Mr. NORWOOD addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THE CHILDREN'S TELEVISION ACT RULEMAKING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MARKEY] is recognized for 5 minutes.

Mr. MARKEY. Mr. Speaker, in 1990 we passed in this body the Children's Television Act. In that act we set as a requirement that the Federal Communications Commission had to go into a rulemaking on the question of what the responsibilities of local broadcasters would be to have served the educational and informational needs of the children who live within the broadcast area of every television station in the United States. During the Bush years there was no real activity on this rulemaking that had to be undertaken, and there was a delay of almost a year before Reed Hunt was in fact confirmed as the new Chairman of the FCC in 1993.

The FCC is in a rulemaking right now on this issue, and it is I think about as important a debate as we can have in this country because, while the V-chip which we passed on the floor and is now law, as signed by President Clinton, gives to the parents of the country the ability to block out excessively violent, sexually material on their screen, and that will be a technology available to parents within the next couple of years, it still does not in any way ensure that there will be quality positive children's television that will enhance the educational and informational needs of children across the country. That is what the Children's Television Act rulemaking at the Federal Communications Commission is all about.

It is my belief that the Commission has to take a very strong stand on this issue. We know that children watch, on average, 4 to 7 hours of television every day. Now, would that it was not so, but we have moved from the 1950's in the era of "Leave It To Beaver" to the 1990's in the era of "Beavis and Butthead."

Increasingly, the broadcast stations in our country have reduced dramatically the amount of children's television of educational content that they put on the air, and instead, substituted the Flintstones or the Jetsons, and argued that in fact those are programs of educational quality because the Flintstones teach children about the archaeological age and the Jetsons will teach children about the future. But parents know that they really do not serve any educationally nutritious role in the development of young people's minds.

So this debate at the FCC is quite important. I am of the opinion that the FCC has to put on the books a requirement that a minimum of 3 hours per

week, even that is embarrassingly low, but 3 hours per week be the standard, and that every broadcaster have to meet that minimal standard.

Now, we know that the good broadcasters are going to do that anyway, and they will far exceed the 3-hour minimum. But we will capture those broadcasters who think of their broadcast license as nothing more than an opportunity to print money, just take in the advertising dollars and to use it for whatever purposes they want, excluding children as a constituency. So this is very important, and it is my hope that all Members who are concerned about this issue will in fact join in the effort to advance this children's television agenda at the Federal Communications Commission.

In addition, and I want all Members to be aware of this, as part of the communications bill we also ensure that each one of the 51 public utility commissions in the United States has to go into a rulemaking to ensure that every school in the United States has access to advanced digital technologies.

□ 1415

Now why is that important? Very simply, because as we pass GATT and NAFTA here on the floor of Congress, we are basically constructing a new compact with the people in our country. One, we are letting the low-end jobs go, and increasingly that is the case across this country. But secondly, we are also saying that we are going to try to tie it to high-end jobs, the high-technology jobs of the future so that they will be based here in the United States. Well, what kind of competitive people will we have if we have not thought through a strategy to ensure that every child in the country, not just the children of the upper and the upper-middle class in our country, but every child, including those in the bottom 40 percentile, have access to the skills they are going to need, have the skill sets that they are going to need in order to compete for these higher-end jobs?

That is why we have to give parents the weapon of blocking out the excessive violence and sexual material. That is why we have to have more positive children's programming on commercial stations. That is why we have to ensure that the public broadcasting budget is kept high so that the quality programming of Sesame Street to Barney, right through the day remains on the air, and that is why we have to ensure that every child has access to these computer technologies in every classroom from K through 12 from the day they begin school.

PRESERVING THE ENVIRONMENT AND OUR NATURAL RESOURCES

The SPEAKER pro tempore (Mr. GUTKNECHT). Under a previous order of the House, the gentleman from Indiana [Mr. BUYER] is recognized for 5 minutes.

Mr. BUYER. Mr. Speaker, what I would like to do today is to address the House, and the subject is the environment and you, the environment and me, and the environment and us. I am one that believes in the preservation of our natural resources, to do that in a managed way. I also believe in clean water, our water quality, and clean air.

I want my colleagues to know that I grew up on the Tippecanoe River in Indiana. When you grow up on the river, you do not belong to anybody but the river itself. My father taught me a lot of valuable lessons on the river, not only to myself but to my brother, the same lessons that his father taught him and I am now teaching to my son. Dad bought a small little farm there on the river. Dad is kind of a Johnny Appleseed. He planned everything, from 3 acres of strawberries to all these fruit trees and an acre of vegetable garden, and that is what we did. We managed all of that since I was 9 years old. So he taught us about being good stewards of the land, and how you have to take care of the land for the preservation so that you can make sure you have good yields year in and year out. So I know what it is like to be on my hands and knees and weed 3 acres of strawberries without the use of pesticides. It is a lot of work.

The reason I took the moment to share that with you is the two issues I would like to discuss on the environment are the Superfund issue and that of out of State waste. Let me start though with out-of-State waste. I bring that up because in the Fifth District of Indiana, we receive two-thirds, almost in excess of 1 million tons of out-of-State waste is dumped into my congressional district. My constituents are forced to handle the millions of tons of waste generated by States and other localities that do not dump within their borders; they dump within our borders. And almost every day when I am on the road I get to witness, not far from the Tippecanoe River along the plains in Indiana is a mountain. This mountain is the largest thing that you could ever see, and it is a mountain of trash. It does not bother me that the trash is there. What bothers me is that in Indiana and States like Indiana who are trying to act responsibly on the issues of solid waste, and we create our solid waste districts and we minimize the amount of landfills that we have so that we can do things correctly and move toward proper management, the preservation of our environment, there are States that are not acting responsibly; all they want to do is take it and shove it into other States that are acting responsibly.

So basically what we have is in America we have a nonsystem. When you have a nonsystem, it begins to penalize States that have a system, and that is what we have here. So I am very concerned on the issue of the interstate waste. The Supreme Court has already stepped forward and says it is the Congress that has to decide this issue.

Now, it seems session in, session out, the issue has come up, and this Congress has not acted. Those in the States of New York and New Jersey have made their effort to move on the flow control issue in this House, and it failed. It failed because the issues of interstate waste and flow control must move together in this House.

And I encourage this Congress to finally move with sensibility, with ration and reason and good thought with regard to how we manage our environment, and move a bill together to address the issues of flow control and interstate waste together in this House; because if we do not, we are not acting responsibly, like I think we should.

Let me address the issue of the Superfund. The reason I want to discuss the Superfund is because we are also looking at reforming the issue. Fifteen years after the Superfund toxic waste cleanup program began, over \$25 billion have been spent and only 12 percent of the toxic waste sites have been cleaned. I have a Superfund site in my congressional district. I have to take a particular interest in it. That is only an average of five sites, though, a year are being cleaned up. I believe that we have to stop, I think, let us stop the frivolous spending of taxpayer money on litigation. That is what is happening.

This is an issue between those of us that want to preserve and clean up the environment versus those who want to line the pockets of the trial lawyers and the lawyer lobbyists. I think this game has got to end. So let us find a good balance here with regard to moving Superfund reform this year so we can stop it.

I know the President is playing the environmental game, saying, "I am an environmentalist, I want to do some Superfund reform," at the same time the trial lawyers are backing his Presidential run. You cannot have it both ways. So let us act responsibly again on the issue of Superfund, and let us act in a way that moves with our passion for how we want a healthier environment in this country, how we want not only the beauty and the spirit of what makes this country good, but also what makes us well.

YESTERDAY'S RULE VOTE WAS NOT IN ANY WAY, SHAPE, OR FORM AN UP-OR-DOWN VOTE ON THE LINE-ITEM VETO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 5 minutes.

Mr. MOAKLEY. Mr. Speaker, first of all, I would like to thank you for your patience in allowing me to put my matters together. I rise today to correct what I believe has been a serious misunderstanding of yesterday's rules vote. Yesterday, a number of news organizations erroneously reported that a vote on the rule, House Resolution

391, was in fact a vote on the line-item veto. Mr. Speaker, this is not the case. The vote on the rule was an extremely complicated vote on a procedural matter. It was most certainly not a place in which Members believed that they were registering either support or opposition to the line-item veto. In fact, there was not one single occasion yesterday when this House had an up-or-down vote on the line-item veto.

Anybody interested in finding a clean up-and-down vote on the line-item veto, and I want you to pay strict attention, anybody interested in finding a clean up-or-down vote on the line-item veto should read the CONGRESSIONAL RECORD from February 6, 1995, or they should look at some of yesterday's other votes. For instance, the vote on the motion to recommit was a vote either for or against making the line-item veto effective immediately as opposed to waiting until January 1997, after the Presidential elections.

Mr. Speaker, the rules of the House are very complicated, and yesterday's rule was one of the most confusing that I have seen in a long while. In fact, even if the rule had failed, line-item veto could still have proceeded on to the President. But I believe we in the House have a responsibility to explain those rules to the people we serve, rather than simplifying them to the point that they no longer reflect the realities of the House. So let me state again, Mr. Speaker, so that I may make myself perfectly clear: Yesterday's rule vote was not in any way, shape, or form an up-or-down vote on the line-item veto.

CONTRIBUTION LIMIT TO SECTION 457 RETIREMENT PLANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, this Member rises to invite his colleagues to cosponsor legislation which he introduced this morning. The measure, similar to provisions in the Balanced Budget Act passed in December, raises the annual contribution limit that State and local government and non-profit corporation employees may contribute to their section 457 retirement plans to equal that which their private-sector colleagues may contribute to their 401(k) plans and requires that these plans be held in trust.

Under the Tax Reform Act of 1986, State and local governments and non-profit corporations were prohibited from offering 401(k) plans for their employees. Under the 1986 Act, section 457 plans were fixed or frozen at an annual contribution limit of \$7,500 while the 401(k) limit was only \$7,000 but was indexed for inflation. This indexing has increased the 401(k) limit to \$9,240. This measure states that the limit for section 457 plans will mirror that of the 401(k).

Also, by placing the assets in trust the employees retirement funds will be

protected against claims by general creditors. The financial woes of Orange County, CA, are a recent example of why this is prudent. Again, Mr. Speaker, this Member invites his colleagues to cosponsor this legislation.

GROWTH AND DEFICIT REDUCTION

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, today I would like to speak on growth, deficit reduction, balancing the budget and getting incomes up to a livable level, all a pretty big order in a 5-minute period. Let me talk about deficit reduction for a moment. You want to balance the budget, you want to do deficit reduction, there are a couple things we have got to realize. First of all, let us make sure we take into account what has been done. Deficit reduction is on a definite, positive trend. The deficit has been cut by one-half in the last 3 years. As to the deficit today is at its lowest point since 1979. It is at one-half of where it was in relation to our overall economy just 3 years ago. It is the lowest now in the industrialized world. It is coming in this year at even lower than was projected last year. That does not mean you let up but it means something positive is occurring. Because of that, I think we also have to make sure that in balancing the Federal budget we do not unbalance a lot of family budgets. I happen to believe that future generations should not be burdened with debt but they should not be burdened with ignorance, either. There is nothing more grievous or no more debt that is heavier than that. That the expenditures that are made today in education, whether it is title I, assistance in math and reading for elementary school students, whether it is student aid, Pell grant and Stafford, student loans, whether it is VA loans, whether it is assisting research in our universities, whether we invest in infrastructure, the roads, the bridges, the airports, the sewer systems, the water systems, those things that bring us growth and bring back more over time than what you pay out, those things are positive investments and ought to be on the positive side of the ledger. There is something else that we can do for growth in the Federal budget and that is to move this budget to the same kinds of budget that every business has and every family has, and that is to have a capital budget. That is to say that those things that we are investing in that pay out over time, we will show on the books that way. Sandy and I, my wife and I cannot afford to pay for a house in one year. We have a mortgage, like most everybody else in this country. We pay that out over 20 or 30 years. So let the Federal Government show the roads, the highways, the physical infrastructure the same way. Many people do not know but your Federal Government does not do it

that way. That needs to change. Other things we need to do is to recognize the importance of wage growth. Henry Ford had it right. He said: "I got to pay adequate wages so that my people can afford to buy my cars." Well, we are going in the opposite direction unfortunately in this country when 60 percent of the American workers are seeing declining wages over the last 15 years, not increasing wages.

□ 1430

And so both at the private sector level and at the Government level we need to be encouraging that upward growth.

Let me tell you quite frankly, Mr. Speaker, the Republican party has it wrong and the White House, the Democrats in the White House, have it wrong. If you think that 2.5-percent growth is going to get us out of this, we can balance this budget in 7 years, we can have a 2.5-percent growth and we are going to have a deficit that is bigger than it is today.

We have got to focus on getting that 2.5-percent growth up to 3 or 3.5-percent growth, not an unrealistic level. But you cannot with a Federal Reserve that chokes back growth and insists to fight only the inflation war. You cannot do it with Government policies that do not stimulate the economy, that cause it to restrict. You cannot do it with a private sector afraid to make investments. And so we have to focus on growth.

Are you worried about Social Security? Social security improves as productivity and incomes improve. Do you want to focus on the family moving ahead? The family moves ahead as the family's income and opportunities improve.

The problem is that both parties, if you are focusing on 2.3- to 2.5-percent growth, are only going to put us down the road, not up the road. So that is the challenge that I believe is ahead of us in these many months to come. Declining incomes have to come up. The rising tide does lift all boats, but the tide has to start from the bottom, not from the top down.

I will return to visit this subject another day.

THE REST OF THE STORY; PAYING MORE AND GETTING LESS

The SPEAKER pro tempore (Mr. GUTKNECHT). Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker and my colleagues, I saw the President was in New York earlier this week. He was talking about improving education. Unfortunately, he really did not tell the rest of the story, as Paul Harvey would say. The President really did not take time to tell the American people about the U.S. Department of Education and the fact that it has 5,000 Federal bureaucrats who justify their existence primarily by pumping out

and churning out mindless regulations for our teachers and our States.

President Clinton really did not tell the rest of the story when he did not tell the people that of those nearly 5,000 people in the U.S. Department of Education that three-quarters of them, about 3,500, are right down the street in Washington, DC, making over twice what our average classroom teacher is making in my district.

President Clinton did not talk about ending welfare as we know it, welfare, really which has destroyed our family structure, any sense of values, self-discipline, and respect and really any hope for education. President Clinton really did not tell the rest of the story about his failed drug policy that has raised youth drug use to all-time levels and made juvenile crime epidemic in this country.

You know, the debate going on, the debate today about funding the country, and we have just been in the process of passing a resolution to continue for 4 more weeks, a lot of people say, "Why can you not decide this?"

There are some fundamental differences about how we spend money on education, the environment, and these other issues. Most people would not know this. But, in fact, the Republicans have proposed from the beginning in their budget a vast increase in spending in education, \$25 billion more over the next 7 years.

But the real debate is over how those dollars are spent, again, whether we finance bureaucrats in Washington, whether we pay to continue to support programs where students cannot read their own diplomas, where students continue to score lower in their tests and we spend more money. My community college has entrants of which over 50 percent need remedial education. So the real question is how we spend our money.

I wanted to also cite for the House and the Speaker here a story from the Orlando Sentinel that cites a report on State education and job training programs. It says State and Federal Governments spend about a billion dollars in Florida on vocational education programs. What is the result? And this is from the report: The programs fail to produce graduates or workers who can earn a decent salary. In fact, only about 20 percent of those who enter these programs completed them, and then a small percentage, 19 percent, found a job after that, and then most of them got a low-paying job and were out of the job in a short period of time.

Lawmakers in Florida were astonished, this report says, when they heard the findings.

The report also indicated that money was wasted on duplicate programs. So this debate about education and environment is paying more and getting less, and that is what this is all about.

People have to understand, because this is important, it is not just how much money you throw at the program, it is how you spend it and do we

improve these programs, do we provide a better education, do our students come out with a diploma they can read and then get a job where they can earn a decent living and be a productive and capable, independent citizen in this great Nation?

So that is what the debate is about, paying more and getting less.

Mr. Speaker and my colleagues, again, as Paul Harvey would say, that is the rest of the story.

APPOINTMENT AS MEMBERS OF THE BRITISH-AMERICAN INTER-PARLIAMENTARY GROUP

The SPEAKER pro tempore (Mr. GUTKNECHT). Without objection, and pursuant to the provisions of section 168(b) of Public Law 102-138, the Chair announces the Speaker's appointment of the following Members of the House to the British-American Interparliamentary Group: Mr. CLINGER, Pennsylvania, vice chair; Mr. BROWNBACK, Kansas; Mr. EMERSON, Missouri; Mr. LINDER, Georgia; Ms. MOLINARI, New York; Mr. PETRI, Wisconsin; and Ms. PRYCE, Ohio.

There was no objection.

THE MICHAEL NEW CASE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. TRAFICANT] is recognized for 5 minutes.

Mr. TRAFICANT. Mr. Speaker, it is an unusual thing for me to come over and do a 5-minute special order. I very seldom do that. Part of the reason that deals with the issue of Michael New, who was stripped of his position and discharged from the U.S. Army because as a military hero he was twice decorated, he refused to wear the blue beret and the shoulder patch of the United Nations. As some people say, Michael New should be thrown out. He was in-subordinate, he did not listen. That is what the Army said in their court martial and their proceedings.

But I have a resolution in with the gentleman from Maryland [Mr. BARTLETT], a good friend of mine that says that the Congress of the United States should reinstate Michael New with his rank and back to the Army because he brings to the attention of the American people more than just this individual obstinacy. He said he took an oath to the U.S. Constitution, not to the charter of the United Nations. And, quite frankly, I agree with him, and I think we have taken this new world order business a little bit too far.

I think the Michael New case is more than about a soldier that has been thrown out of the Army. I think it is a microcosm of how we as a Nation have gone so far that we have our troops under foreign command wearing the uniforms of other identities. And, quite frankly, all the money we give the United Nations, I think they blow an awful lot of it. They should be doing more peacekeeping so we would not

have to send in our troops in the first place.

I just wanted to come over here for the New family, because it was a special order that was put together by the gentleman from Maryland [Mr. BARTLETT], and I stand in support of Michael New and I oppose this new world order madness that has our troops under foreign command, wearing foreign uniforms, and I think Michael New is not an individual that has just gone off rebelliously. He is a twice-decorated veteran. He is a patriot, and I think he takes a stand that should become the subject of great debate here in the Congress of the United States.

So I thank you for belaboring that issue with me, and Mr. BARTLETT will give more information on the resolution itself because I just came over spontaneously and wanted to offer my support.

THE HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to speak to my colleagues about two items.

First, I wish to congratulate the House on the passage last evening of H.R. 3103, the Health Coverage Availability and Affordability Act. For the first time in this Congress we have passed legislation which will provide for 25 million Americans at least accessibility, affordability, and accountability in health insurance.

This legislation in its most pertinent parts provides portability. If you lose your job, you take the insurance with you. If you get a new job, you will take that insurance with you.

It also makes sure that no matter what preexisting medical condition you may have, you still qualify for health insurance.

It increases deductibility from 30 percent to 50 percent for the self-employed who provide health coverage for themselves and their employees. It will allow small businesses group coverage of insurance, will also provide medical savings accounts.

I am very hopeful the Senate will agree. This legislation is forward-thinking and positive.

TRIBUTE TO CHARLES REED

Mr. Speaker, I want to make a tribute to a fallen hero. U.S. FBI agent Charles Reed of my district was gunned down last Friday trying to do his job to win the war against drugs, and for 16 years served the people of the tristate area of Pennsylvania, Delaware, New Jersey, in making sure we eliminate the scourge of drugs in our country.

One of the most successful agents in the history of the country, he found leads where no one else could even tell there was evidence lurking, and he

brought whole cartels of drug dealers down in his work, and he was dedicated. Every day he worked the longest hours, did the best job, and as Louis Freeh said, the FBI Director who came to his funeral in Montgomery County, PA, this week, he said this was a fallen hero, a man who is a role model for all FBI agents. He was the first FBI agent to be killed from the Philadelphia area in the history of the department. He is someone who is a great loss because he was a wonderful father, a loving husband, and a great community leader, and he epitomizes for me what is great about America.

The war against drugs will go on, and there will be awards named in his honor because as an American hero, I salute him, this Congress salutes him, and a grateful Nation says we will keep the fight up, we will prevail, because of the agents like Chuck Reed, who really make a difference and their lives have meant so much to so many. God bless you, Chuck Reed.

A TRIBUTE TO PFC. FLOYD E.
BRIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to reach out today to Mr. and Mrs. Floyd Bright of my community in Houston, TX, and speak to them on behalf of this Nation and this Congress to acknowledge that along with the entire Houston community this Nation is saddened and diminished by the loss of one of our finest young citizens, Pfc. Floyd E. Bright, who lost his life in the service of his country on March 22, 1996, while on duty in Bosnia and Herzegovina.

In behalf of myself, my congressional colleagues, and fellow Houstonians, I would like to express our heartfelt condolences and sympathy for the family of Private Bright and to say to them that we share their loss.

Neither his country nor the community will ever forget Private Bright's sacrifice, and we hold his memory in the highest honor.

We also honor and hold in the same high esteem the supreme sacrifice that has been made by his family. We share their grief and feel deeply what it means to lose a child, a shining light gone out far too soon. Private Bright was a graduate of Lamar High School in Houston and attended San Jacinto Community College. All who knew him would acknowledge him as a person of extreme curiosity, friendliness, and a willingness to serve. How lucky we are as Americans that we have the kinds of young people that will go forth and serve their country.

It reminds us of the very special and solemn responsibility of this Government, this President, this U.S. Congress to ensure in all times that we stand for what is right in this world, that we respect the fact that we must

respect and love our young men and women and acknowledge that anytime that we can assist them in staying away from harm's way, we should take up the charge.

To the family of Private Bright, let me again say we honor you and respect you and love you, and we shall remain forever proud of him and so shall his country which he served so very well.

The entire Houston community is saddened and diminished by the loss of one of our finest young citizens, Pfc. Floyd E. Bright, who lost his life in the service of his country on March 22, 1996 while on duty in Bosnia and Herzegovina. On behalf of myself, my congressional colleagues, and fellow Houstonians, I would like to express our heartfelt condolence and sympathy for the family of Private Bright and to say to them that we share their loss. Neither his country nor this community will ever forget Private Bright's sacrifice, and we hold his memory in the highest honor. We also honor and hold in the same high esteem the supreme sacrifice that has been made by his family. We share their grief and feel deeply what it means to lose a child, a shining light gone out far too soon.

Private Bright was a graduate of Lamar High School in Houston and attended San Jacinto Community College. We shall remain forever proud of him, and so shall his country, which he served well.

□ 1445

THE MICHAEL NEW CASE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Maryland [Mr. BARTLETT] is recognized for 60 minutes as the designee of the majority leader.

Mr. BARTLETT of Maryland. Mr. Speaker, we want to spend a few minutes this afternoon looking at the very special case of Specialist Michael New. His name is out to a number of our people, but some may not be familiar with this case and the issues involved here.

Michael New is the son of missionary parents. He was home schooled. He volunteered for the military. He was stationed in Germany. The group he was with was being moved to Macedonia. As a part of that move, they were told that they had to wear the insignia of the United Nations.

Specialist New took the position that the oath he took when he entered the military was to defend and protect the Constitution of the United States; that he had not taken an oath to defend and protect the charter of the United Nations.

Now, in the helicopter accident over Iraq, when several of our military personnel were killed, the Vice President, AL GORE, went to their parents and told them they should be proud of their sons who died as U.N. soldiers. Specialist New had the conviction that if he were to wear the insignia of the United Nations, that he would become, as the Vice President indicated, he would become a U.N. soldier, and he thought that this was a violation of the oath he

took to protect and defend the Constitution of the United States.

He would gladly have gone to Macedonia as a U.S. soldier assisting in a U.N. operation. Our military personnel did that by the thousands in Korea. We were there and lost many lives over a number of years, but not one of our soldiers there was a U.N. soldier. They were all U.S. soldiers.

What Specialist New was asked to do was something he felt was very different than this. He felt that he was being required to change his allegiance to the Constitution of the United States to the charter of the United Nations, and he was not willing to do this.

He was told in his training that he was not to obey an unlawful order. Let me read to you from the 1990 Army field manual. U.S. soldiers are instructed that, quoting from the manual,

Moral courage is as important as physical courage. Do not ease the way for others to do wrong. Stand up for your beliefs and what you know is right. Do not compromise your professional ethics or your individual values and moral principles. If you believe you are right after sober and considered judgment hold your position.

This is precisely what Specialist New did. He had no problem in going to Macedonia. He would have willingly gone. As a matter of fact, he is a decorated soldier, once for saving the life of a comrade, and a second time for saving the eyesight of a comrade. So he was not trying to avoid a dangerous situation.

His concern was the concern of conscience, that he could not in good conscience transfer his allegiance from the Constitution of the United States to the charter of the United Nations. He was court-martialed for this, and it is now under review within the military, but he was court-martialed, and he is to be given a bad conduct discharge.

I have some charts here that will help us to understand how we got where we are. Let me put the first one up.

As you can see in this chart, this defines the relationship between the U.N. charter and the law that regulates or controls how we relate to the United Nations. This is the United Nations Participation Act of 1945.

In the U.N. charter, there are two chapters of relevance here. The first of those chapters is chapter 6. Chapter 6 relates to peace observations. It defines the role of the United Nations in peace observations. Chapter 7 defines the role of the United Nations in peace enforcement. There are significant differences between peace observation and peace enforcement.

Now, the United Nations Participation Act of 1995 is the law which determines how we as a country relate ourselves to these two chapters of the United Nations. Interestingly, the two sections of this law, the Participation Act, are section 6 and section 7. But as you can see from the chart here, section 6 relates to chapter 7, which is

peace enforcement, and it clearly requires prior congressional approval.

Section 7 of the United Nations Participation Act, as you can see, relates to chapter 6, and this requires no congressional approval. But there are some limitations here. There cannot be more than 1,000 troops worldwide, and they have to be noncombatant troops.

Now, which was this operation? Macedonia is a part of the overall ex-Yugoslavia operation. There have been a number of U.N. resolutions relative to it. Which one was this?

This is a letter from the President, written by Bill Clinton to then Speaker of the House Thomas Foley, and this is justifying his order to deploy U.S. troops to Macedonia as a part of the overall effort in what used to be Yugoslavia, which, of course, includes Bosnia.

Here is the significant statement. The President said that this was under chapter 6 of the U.N. charter.

But let us look now at the position that the United Nations has taken relative to this. There have been 97 U.N. Security Council resolutions and 13 U.N. Secretary General reports that relate to the Yugoslavia situation and Bosnia and all of the missions, including Macedonia, which are associated with that. Of these 97 U.N. Security Council resolutions, 27 of these resolutions specifically refer to chapter 7. They say that it is a chapter 7 operation.

Interestingly, not one of them, not one of them refers to this operation as the chapter 6 that the President said it was. So we have now a major difference between what the President said it was and what 27 resolutions of the United Nations said this operation was.

Now, if it in fact was, and let me go back to the first chart here, if in fact it was a chapter 6 operation, then no congressional approval would be required. But the United Nations in their 27 resolutions said very clearly that it was a chapter 7, and if it was chapter 7, then it clearly requires prior congressional approval. There has been no congressional approval.

This next chart is from some of the specific resolutions, and this is language which makes it even clearer that they have not made an error in designating it a chapter 7, determined to ensure the security of UNPROFOR and its freedom of movement for all of its missions, and to these ends under chapter 7. So this is another clear indication from 1 of the 27 resolutions that I mentioned, a clear indication that the United Nations felt that this was clearly a chapter 7 activity.

We now go to several more of these. They used the kind of words that are consistent only with a militarized peace enforcement activity, or chapter 7. "Demilitarization, protect, interpose, prevent hostilities." These are not descriptions of an observation force. These are descriptions of an enforcement force. So it is very clear from all of these resolutions in the

United Nations that the United Nations felt this was a chapter 7, not a chapter 6.

It is interesting that the administration has now admitted that it was a chapter 6, but they say, surprisingly, and let me go back to the first chart here, they say surprisingly it can be a chapter 6, but it can still relate to section 7 of this act. This, of course, is impossible. There is no way that you can construe section 6 of the United Nations Participation Act to be consistent with chapter 6 of the U.N. charter.

So here we have the basis of the problem, Specialist New taking the position that he should not have to wear the insignia of the United Nations, that that transfers his allegiance, and his problem with this order which has led to the larger question of whether or not this was a lawful order.

There are two levels of whether it is lawful. The first is even if it was a lawful mission, and it would appear that the President did not have the right to send the troops there because he had not had congressional approval and the United Nations said clearly it was a chapter 7, but even if he had the right to send the troops there, there is still the question of whether or not he could send our troops there as U.N. soldiers.

Now, this gets into a third area, which is a broader one and a very interesting one, and that is one which has needed resolution for quite a while now. The Congress tried to do this in the so-called War Powers Act.

There is in the Constitution the clear prescription of the responsibility of the Congress, and there is the clear prescription of the responsibility of the President. But between those two clearly defined areas there is a major gray area. I think that this has occurred because the Framers of our Constitution could not have anticipated the kind of world that we would be living in in 1996.

Let me read from the Constitution the responsibilities of the Congress, because I think it is well to go back to the original language. The responsibility of the Congress is to declare war. It is to raise and support armies. It is to provide and maintain a Navy. Then, very significantly, to make rules for the government and regulation of the land and naval forces. I am reading from article I, section 8 of the Constitution.

Now, if I go to the powers of the President, let me read the powers of the President relative to the military. They are taken from article 2, section 2. "The President shall be commander-in-chief of the Army and the Navy of the United States and the militia of the several states when called into actual service of the United States."

Now, there may be a grammarian's argument as to "when called into the actual service of the United States," what does that refer to? Does it refer to the Army and the Navy and militia, or is it restricted to the militia alone?

To determine what our forefathers had in mind, one needs to go back to

put their statement in the context of the time. Remember when this was written, the fastest way one could travel on land was on horseback. Ordinarily armies marched. The fastest way to travel at sea was in a sailing boat. Clearly, nothing was going to happen very quickly in this kind of a world. I doubt that our forefathers ever envisioned that there would be a need to commit the troops before Congress had the opportunity to discharge its responsibilities.

Again, let me read the responsibilities of the Congress to discharge its responsibilities. Let me read the responsibilities of the Congress to declare war. Now, sending troops in harms's way, where a number of thousands of them, as happened in Korea, could be killed, I am sure, and were killed, I am sure our forefathers would have envisioned this as the equivalent of declaring war.

Now, to decide to send our troops to Macedonia in this operation there, I am sure they felt would come under either that declaration of war, or under to make rules for the government and regulation of the land and naval forces.

□ 1500

So we have a problem today, and that problem is that our military today must act in a fashion that our forefathers could never have imagined that they would need to act. For example, if an enemy in Asia were to launch an intercontinental ballistic missile and we knew the moment they launched it, it would be here in half an hour, that is clearly not time for the Congress to be convened and to make a declaration of war. Clearly our President has to have the ability to respond to that threat.

Nobody wants to deny the President the opportunity to respond to that threat and others that may not be so severe and imminent but may not permit the Congress to convene and to go through the formal declaration of war.

But there are many activities that our troops have been engaged in in the past and are now being engaged in which fall in this gray area. Clearly, clearly it was no great urgency that we send our troops to Somalia, no great urgency that we send them to Haiti, no great urgency that would have precluded the Congress from meeting that we sent our troops to Macedonia or to Bosnia. Yet in each of these instances, the President felt as Commander in Chief that he had the authority to commit our troops there.

So this case of Specialist New has unearthed this much larger area, and that is what are the constitutional prerogatives of the Congress and what are the constitutional prerogatives of the President. This case is now going to foster a debate on this very important subject.

Mr. Speaker, there have been disagreements among Presidents and Congresses. When we had a Republican President and Democrat Congress, we had a disagreement. We have that same

disagreement now that we have a Democrat President and a Republican Congress. So Specialist New unwittingly, I think, has opened up this larger venue, an issue that really needs to be addressed. The Congress has the responsibility of funding the military, to raise and support armies, to provide and maintain a Navy.

If the President can commit our troops to have expensive ventures, then it could be argued that he has wandered into the congressional area of responsibility because we cannot commit troops without committing the moneys that are necessary to support them. So these are some very important issues that need to be addressed.

Also there is another area of the Constitution that those who are pursuing legally the Specialist New case have mentioned. That is article I, section 9, which they think made the command that he got to put on the U.N. insignia not only a lawful command but a United States constitutional command.

Let me read that and my colleagues use their judgment as to what they think our forefathers meant by this. Let me read the whole paragraph. It is the last short paragraph in article I, section 9: No title of nobility shall be granted by the United States, and no person holding any office of profit or trust under them—that certainly includes the military—shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Specialist New made the argument, we will remember, that he felt that being required to put on the insignia of the United Nations and then fighting as a United Nations soldier and, as the Vice President has said, dying as a United Nations soldier if dying in that fight, that he transferred his allegiance from the oath he took to defend and protect the Constitution of the United States to the charter of the United Nations. He felt this to be an unlawful order. He felt that this was a violation, and those who are pursuing his case agreed, that this is a violation of article I, section 9 of the Constitution that prohibits this action without the consent of the Congress.

There has been no consent of the Congress.

Mr. Speaker, this case is now going through the military court process. It is going through the appeals there. It is now being reviewed by a senior officer who will indicate shortly whether or not he concurs with the decision that was made by the court-martial.

Let me mention, by the way, to make something very clear here that in this court-martial, the judge in the court-martial instructed the jury that it was beyond their pay grade to consider whether or not this was a lawful order. The word he used was that this had some political overtones and that this could not be decided in the military courts. So he instructed his jury that they had to consider that this was a lawful order.

Mr. Speaker, if we consider it was a lawful order, obviously he did not go by the order. So the court-martial was no great surprise once we have the prescription that the jury had to consider this a lawful order. But the judge has made the point, as I read earlier, that he is willing to hear this argument after it has gone through the military courts. It is not that he has rejected the argument of Specialist New. It is just that he does not think this is an appropriate time for this to be heard in the civilian courts, in the Federal court system.

As a matter of fact, in that last statement I read, he held the door open not just a little but he held the door open a great deal. He said, once the military proceedings are completed, and I would gather that he does not expect because of the position of the military that Sergeant New is going to get the kind of decision he wants, once the military proceedings are completed, Specialist New may either move to reopen this proceeding or file a new petition for a writ of habeas corpus.

He had earlier said in his conclusions, just the page before, that the court takes his allegations very seriously. The court has taken them seriously, he says.

So where we are now is that this case is proceeding through the military courts. It is now being reviewed by the senior officer. If that review, if he upholds the court-martial decision, then there is a formal appeals process and Specialist New's lawyers—who, by the way, are providing their services pro bono; they have recognized that this is a case that goes far beyond the heart-felt conviction of this young man—that this is a case that will be important in defining, helping to define the relationship between the President and the Congress and may go a long way to avoiding the kind of indiscriminate deployment of our troops around the country that many view are not necessarily in our vital national interest and would sap large amounts of money from the limited funds that we have to maintain a military that we desperately need to protect us against real enemies now and in the future.

I hope that in the military courts that Sergeant New gets satisfaction. If they continue to take the position that his order was lawful, then he will not get satisfaction there, and it will move in due time into the Federal courts. We need a dialog all across America. The great wisdom of the country is not the 545 people who are inside the Halls of the Congress here, inside the beltway. The great wisdom of the country is out all across America.

We need a dialog across America so that we have an input from our constituents in all of our districts across the country because we may need legislation in the Congress. We may need legislation here in the Congress to solve the problems that are brought out by Specialist New's courageous ac-

tion. We would like our citizens to become very knowledgeable on this subject. We would like them to research the Constitution. We would like them to search their conscience, and we would like them to communicate with their legislators so that we have the advantage of an input from our constituents when we come to the point that we make a decision whether or not we are going to offer legislation and the kind of legislation that we are going to offer.

There is, apart from the legal arguments here, the recognition that here we have a brave young man, who has been twice decorated, once for saving the life of one of his fellows, and secondly for saving the eyesight of another. He is a medic, by the way. And he has now taken a position of conscience. In an America where increasingly anything goes and where we are more appalled each day by the kind of fare that we get over our radios and our televisions, we ought to stand up and applaud a young man who at great risk to his future takes a courageous position like this.

However this comes out, and I have to believe that not only is Specialist New going to be exonerated but that we are going to have the opportunity to enact some very important legislation that will define the roles of the Congress and the President so we do not have the kinds of misunderstandings that have come up not just during this administration but previous administrations as well, but whatever happens in this, I think that we need to remember that this is a brave young man who has taken a position of conscience.

Mr. Speaker, how many of us would have had the same kind of courage to risk a bright future by taking a position of conscience like this? He could have rationalized it: This is somebody else's problem. I am just a lowly specialist. I do not need to take, to dig my heels in and take this position.

He did not do that. He did what I hope more and more of us across the country do every day. That is to recognize that we have a responsibility.

Let me read again, let me read again from the Army field manual. I will close with this because I think this speaks the minds and the hearts of most of our people:

Moral courage is as important as physical courage. Do not ease the way for others to do wrong. Stand up for your beliefs and what you know is right.

America, we need more of this. Do not compromise your professional ethics or your individual values and moral principles. If you believe you are right after sober and considered judgment, hold your position.

Mr. Speaker, this was not only great advice for Specialist New and every other brave young person who has volunteered for our military, it is also great advice for all the rest of us. My hat is off to Specialist New and his position of courage.

I hope that everyone out there will become better informed about this and will convey to their Representatives what they would like them to do in solving the problems that have been brought up by this very special case of Specialist New.

THE GOLDEN EAGLE AND VULTURE AWARDS "COME SHOP WITH ME CAMPAIGN" UPDATE

The SPEAKER pro tempore (Mr. GUTKNECHT). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 60 minutes as the designee of the minority leader.

Ms. KAPTUR. Mr. Speaker, a little over a year ago, our Jobs and Fair Trade Caucus brought together a small coalition of working women, consumer groups, and Members of Congress to launch what we have called the come shop with me campaign, a campaign to educate the American consumer about the link between the loss of U.S. jobs here at home, high prices, static wages, sweatshop working conditions in the developing world and even in some places here in this country and the record profits being made by certain multinational companies which keep U.S. prices high while relentlessly moving our jobs offshore.

We illustrated this link between loss of U.S. jobs and trade by targeting specific corporations, going to stores and checking prices, scouring annual reports and newspaper clippings, and most importantly, talking to consumers and workers, getting their side of the story.

Mr. Speaker, today we embark on a golden eagle campaign to recognize and reward fine U.S. companies that exemplify the best that is in us as a nation. Simultaneously, we will identify those companies and chief executive officers whose behavior is not exemplary and deserve to be labeled only as corporate vultures.

The corporate vulture label will be given to American corporations which are in need of vast improvement. These are the ones which exploit our marketplace yet have downsized their work forces, which have outsourced most of their production to foreign countries, which use sweatshop labor abroad and then import these transshipped goods back to the United States, keeping their prices high here at home and maintaining a shell company in our country, even while enjoying all of the benefits of being called an American company.

The vulture, a predator and a scavenger, is an appropriate symbol for identifying U.S. corporations that exploit foreign workers while getting fat on the backs of American consumers and giving back almost nothing in return.

□ 1515

But let us begin on the positive side of the ledger with our first award, the

Golden Eagle Award, and we will do one of these each month between now and the end of this fiscal year. This very prestigious Golden Eagle Award recognizes a U.S. firm and its chief executive officer who exemplified the best in business behavior. We are proud of them as citizens of this great country. The Golden Eagle Award will be presented to a U.S. firm that treats its workers with dignity while making decent profits, resists the tide of downsizing and outsourcing production, contributes to the strengthening of our communities, charges a reasonable price for its products, and remains and prospers in the United States of America.

I am very pleased to present the first Golden Eagle Award on behalf of our caucus, along with a new U.S. flag flown over our Capitol, to Malden Mills in Methuen, MA, and more specifically I would like to present the first Golden Eagle Award to Aaron Feuerstein, the 70-year-old owner of Malden Mills whom the local press there has hailed as the saint in New England.

On December 11 last year a major fire struck Malden Mills, the company Mr. Feuerstein's grandfather founded in 1906, burning down 3 of 9 buildings and idling 1,800 employees, three-quarters of the work force at that company. But instead of laying off his work force and pulling up stakes for Mexico, as so many other textile and apparel firms have done across this land, Mel Feuerstein promised he would pay the workers their wages and, even more incredibly, their health care benefits, for 30 days, and when it became obvious that more time was needed, he extended the period to 60 days and then to 90 days.

When asked why he did it, Mr. Feuerstein replied simply, "Because I consider the employees standing in front of me as the most valuable asset Malden Mills has. I don't consider them as just an expense which can be cut."

What makes Mr. Feuerstein's story all the more remarkable is that he stayed in Methuen, MA, even in the face of adversity while most of his much larger competitors, some of the names you will even recognize, Sara Lee, Fruit of the Loom, continue to close plants in this country and give pink slips to workers and move their production offshore.

Over the past 20 years 292,300 workers, mostly women, have lost their jobs in our Nation in the textile and apparel industries. Forty percent of that industry in our country is without a job. But Aaron Feuerstein, and he is not a multinational, has tried to hold out, treated his workers well and has continued to make a profit. He is a shining example of what it means to be a good corporate citizen in the United States and try to struggle uphill against the vultures of the mega corporations that would like to snuff him out of business.

Mr. Feuerstein truly deserves our praise as a patriotic citizen. Along with our first Golden Eagle Award, we

will mail to him today this brand new flag flown in his honor and his firm's honor over this Capitol of the United States. Mr. Feuerstein, thank you, thank you for your decency and for your leadership as a corporate citizen of this Nation.

By contrast, we have chosen to designate the Nike Corp. as the first recipient of our corporate vulture label. Nike has shut down all of its production in this country. It does not even produce one athletic shoe in the United States of America, even while it earns billions in profits off this marketplace. In fact, their profits have quadrupled, gone up over 4 times over the past 5 years, by aggressively marketing, and I underline the word "marketing," many of their shoe products and marketing them to some of our most impressionable young people.

The company now commands over one-half, one-half of the men's athletic shoe market in this country. Not a bad racket if you are Nike, paying your women workers in Indonesia and China 12 cents an hour while charging our kids and our families \$135 to \$150 a pair for shoes, but not a good deal if you are a downsized American worker who used to make those shoes in Maine or in California, or a consumer who has to pay those high prices. Not a good deal for them. Or how about if you are an anonymous Chinese woman worker whose government makes its money off the sweat of your work? Not a good deal for you either.

Now Nike would like you to believe that they are a great American company. In fact, they have been spending \$250 million a year out of the money they make off of you trying to convince you how good they really are. They bought so much advertising it is hard to turn on television without seeing it. Nike has virtually bought off the entire American sporting world to delude the American consumer about what is really going on here.

The truth of the matter is that all of Nike's 75,000 production workers, mostly poverty-stricken women and hungry girls, are in countries like Indonesia, Thailand, China, and South Korea, countries which are notorious for their sweat shop working conditions and bleeding all they can out of their people until they are finished with them. Then they throw them out the door, and there is another million people who are hungry, lined up to replace them to work for 10 cents an hour.

Now here at home Nike threatens to tear up our communities with their relentless marketing to our most vulnerable kids. You know what is happening. In some places in this country our children are killing one another for these shoes. As Phil Mushnick, a sports writer for the New York Post, courageously pointed out when he refused to endorse Nike shoes, he said, "I saw the prices going from \$40 to \$90 to \$100 and then \$150, and in full cognizance that people were dying for these shoes, inner city kids, too, the kids that Nike was

targeting with their inner city role model marketing binge."

For this our caucus can think of no other company more deserving of the label "corporate vulture" than Nike Corp.

Now Mr. Philip Knight, the chairman of the board of that company and its chief executive officer, took home compensation of over \$1.5 million last year, not including his stock bonuses and other benefits and perks. I often ask myself whether this type of individual has any conscience left or if he ever had any, to profit personally off the meager wages paid to Asian women and the U.S. workers he has sent to the unemployment lines. Mr. Knight and Nike, for you our caucus designates the "vulture" label.

Mr. Speaker, I also wanted to place in the RECORD this evening in our battle, continuing battle for job creation in this country to give our workers and our communities a fair shake in the international market, some information on a bill moving through this Congress that Members should know about. It concerns our patent laws, the very basis for our collective intelligence as a people, the foundation of our new products where the genius for America's future lies.

The U.S. patent system is under attack, and the United States, without question, has the largest body of intellectual property in the world, protected from the time of George Washington and created by the first Congress of the United States. If this system is weakened, and there are many who would like to see that it is, America's job creation capacity will be even more seriously eroded.

Today I rise to point out that one of the bills moving in this Congress is a grave threat to our traditional patent system; that bill number, H.R. 2533, with a very innocuous title, "The U.S. Intellectual Property Organization Act of 1995."

Why am I concerned about it? Because why should our Nation pass a law that puts us at a greater competitive disadvantage with our trade competitors around the world? H.R. 2533 is tantamount to selling off our national heritage bit by bit. H.R. 2533 would subject our patent examiners to undue pressure by special interests by removing their current civil service status.

You know, there ought to be some things in this town not for sale.

H.R. 2533 would undermine the Constitution of this country by removing the Patent Office as a core Federal function, and congressional oversight in that bill becomes almost nil.

I ask my colleagues to pay attention to this bill, oppose H.R. 2533, and support H.R. 359, which restores patent terms and gives our patent and inventors, the geniuses of our country who are inventing our future, the kind of protection and respect that the Government of the United States and the people of the United States owe them.

Let me say to my colleagues, do not be fooled by the wolves at the door, and

let me say you might ask yourself the question, "Well, who would want to tamper with our patent system? In whose interests would it be to weaken the protections we give to our inventors?"

There is an article I am going to be placing in the RECORD called the National Security Report, lead article, "American Patent System Subject To Foreign Power Grab." There are plenty of powerful interests around the world that would like to own the competitive genius of this country, and they know the only way they can do that is by changing the laws.

In fact, the Constitution of the United States, and I quote from the article I am going to enter in the RECORD,

In the war for global economic dominance, the fiercest battles today are over intellectual property. Where nations once fought for control of trade routes and raw materials, they now fight for exclusive rights to ideas, innovations and inventions.

The article referred to is as follows:

[From the ROA National Security Report, Sept. 1995]

AMERICAN PATENT SYSTEM SUBJECT TO
FOREIGN POWER GRAB
(By Beverly Selby)

The recent book Patent Wars: The Battle To Own The World's Technology, best describes the reason for the current legislative struggle in the 104th Congress about intellectual property. It states, "In the war for global economic dominance, the fiercest battles today are over intellectual property. Where nations once fought for control of trade routes and raw materials, they now fight for exclusive rights to ideas, innovations and inventions."

In 1947, intellectual property comprised just under 10 percent of all U.S. exports; today, the estimate is that "intellectual property accounts for well over 50 percent of all American exports." The United States is a major player in the world community because it has the largest body of intellectual property in the world. Job creation opportunities are directly linked with the patent system which has been the secret of America's job creation and economic power for over 200 years.

Today, in the 104th Congress, the debate is about restoring the patent term, and other issues which will radically change the American patent system. Legislation has been introduced to restore the patent term, publish patent applications before a patent is issued, re-examine issued patents, and create a government Patent and Trademark Corporation.

On one side of the argument are multinational companies and foreign interests, and on the other are independent inventors, small businessmen, venture capitalists and universities. The major issue is the patent term. Several concerns have been raised about pending legislation and its effect on the American patent system.

Last year when Congress approved legislation implementing the General Agreement on Tariffs and Trade (GATT), a provision was included that dramatically changed the way the U.S. patents will be issued. Historically, patents have been awarded for a term of 17 years beginning when the Patent & Trademark Office (PTO) grants a patent to an applicant. However, beginning on 8 June of this year, the PTO will issue patents for a 20-year term beginning when the application was filed with the PTO.

The net effect of this change is to dramatically shorten the useful life of breakthrough

patents held by emerging companies, which have led to the creation of entire industries. Patents of highly technical, cutting-edge discoveries take years to issue. Under current law, such a delay in inconsequential as the patent holder is assured a minimum patent term of 17 years because the time does not begin to tick until the patent is issued. Not so with the new 20 year standard, as it often takes the PTO eight to nine years or even longer to issue a patent, leaving the patent holder with only a few years of protection, if any.

Given the vast amount of capital needed to sustain many high growth companies, retaining exclusive use of the underlying intellectual property for a full 17 years is imperative if any emerging company is to recover its costs and provide a competitive rate of return to its venture investors.

Congressman Dana Rohrabacher (R-Calif.) has introduced legislation that would cure the problem of a shortened patent term. His bill, H.R. 359, would make U.S. patents valid for 17 years from date of issue, or 20 years from date of filing, whichever period is longer. During the course of the GATT debate last fall, United States Trade Representative Mickey Kantor agreed the Administration would not oppose legislation guaranteeing a minimum patent term of 17 years as it would not constitute a violation of the GATT agreement.

Many changes to the American patent laws were proposed in 1994. The patent term limitation was passed because it was piggybacked on the GATT-implementing legislation. This change in the patent term weakens the American patent system and penalizes the breakthrough patents. Also, these changes facilitate widespread copying of the more important inventions by foreign companies.

Three of these changes, when taken in combination, establish a disastrous scenario that clarifies the reason for the Japanese insistence that America adopt these changes. These three changes are (a) a patent term measured from the filing date (the GATT patent term), (b) publication in 18 months and (c) three party re-examination.

The scenario for important breakthrough (e.g. high-tech) patent applications is disturbing. The breakthrough patent application is filed and then it is published in 18 months. Because of its importance, large multinational companies rally to oppose the breakthrough patent by filing prior art, and most likely by filing arguments opposing the issuance of the breakthrough patent. Because of the significantly longer pendency for important patents, the breakthrough patent is far from issuing when the oppositions' are filed. The patent examiner, who is reluctant to issue a breakthrough patent having broad claims, enters new rejections based upon the prior art submitted by the opposition. This further increases the pendency time.

Currently, the patent officer permits the filing of multiple re-examinations in sequence. Therefore, to be consistent, the patent office will undoubtedly permit the filing of multiple oppositions in sequence, opposition after opposition, causing the examiner to enter new rejections as new art is cited, further delaying the issuance of the patent. Under the GATT patent term, the term of breakthrough patent applications is further reduced by the long pendency.

Because of the 18 month publication requirement, companies worldwide are able to copy and to develop the breakthrough technology while the patent application is still pending. As currently practiced in Japan, and as a direct result of the publication,

competitive products begin to appear in the marketplace and large companies "flood" the PTO with multitudes of mundane improvement patents on the breakthrough technology. As in Japan, these mundane improvement patents are often issued before the breakthrough patent because of the prosecution delays inherent with such a breakthrough patent, and because delaying oppositions are not filed for mundane improvement patents.

When and if the breakthrough patent finally issues, much of the GATT patent term has expired, and its patent owner will be competing with mature products in the marketplace and "floods" of mundane improvement patents based upon the patent owner's originally published breakthrough technology. However, this is far from the end of the ordeal for the patent owner. Now the competitors file a sequence of re-examinations, one after another. A re-examination is a post-issuance opposition. The company behind the re-examination is kept secret, and an attorney is usually named as the re-examination requester. A re-examination can take more than five years. After a re-examination is completed, another, and another, and another, can be filed. A patent cannot be realistically enforced while a re-examination is in progress. Hence, a sequence of re-examinations further dissipates the effective term of the patent.

Now, new legislation is in progress to make re-examinations third party proceedings. Presently, a re-examination is conducted by the patent examiner. The requester can file initial papers but is not permitted to intervene in the re-examination. The new legislation permits the requester to participate in the re-examination. This will change a re-examination into a form of litigation with a team of opposing attorneys arguing issues, filing briefs, and performing many other complex litigation activities. The PTO has trouble hiring and training qualified patent examiners; now the PTO will have to train patent examiners to be litigation judges.

Even worse, many breakthrough inventions come from small companies and individual inventors with limited resources. Matching up such a patent owner against a team of attorneys from a large foreign company will usually end in devastation of the breakthrough patent. Even if the patent owner prevails, another re-examination will be requested by another large company citing a different stack of prior art references and the attack will start all over again.

In Japan the combination of conditions has resulted in important technologies being exposed and unprotected: a patent term measured from the filing date (the GATT patent term), publication after 18 months, and third party oppositions. This has resulted in Japan becoming a nation of copiers. Now, those seeking to copy American technology are demanding legislation to deprive America of its innovative talents. America must stand firm behind its inventors, small businesses, research universities, and entrepreneurs, and not permit its intellectual property to be copied with impunity.

Research universities also share a long-standing interest and an active involvement in intellectual property issues that affect higher education. Since the passage of Public Law 96-517 (The Bayh-Dole Act) in 1980, research universities have been actively engaged in establishing patent protection for university-developed technology and subsequently licensing their patents to industry and small business. Innovations resulting from university research are deemed largely responsible for the spectacular growth of the biotechnology industry, and of significant importance to the microelectronics, com-

puter and health care industries. These innovations are culled from the fundamental scientific explorations of university faculty, students and research scientists and, as a result, tend to be at the cutting edge of scientific theory and practice. As a consequence, patent applications on university inventions have historically spent years in the PTO before ultimately issuing as patents.

University licensing programs are generally dependent upon patent protection to induce mature companies as well as small businesses and start-up company investors to take a financial risk on backing the further development of new, and often early-stage, technologies. Consequently, university technology transfer managers were indeed concerned to find that H.R. 5110, in implementing the GATT, had potentially shortened the long-established patent term of 17 years from date of patent issue, and had done so despite the fact that such action was not required by the GATT.

Our interests in enhancing the successful transfer of university technology, and in helping to keep the U.S. as a front-runner in commercially exploiting new technologies, are not well-served by potentially diminishing the useful life of our patents in an effort to reap an unquantified benefit from harmonization with potentially less innovative nations who stand to gain from shorter patent terms.

These are but a few of the concerns of the independent inventor, venture capitalists and universities who are relying on their patents for income and to create new industries. What must be remembered is the fact that the U.S. system is unique and was created by the founding fathers as a means of generating jobs and prosperity for the country. To date, the United States is leading the world in fundamental patents, which are most often cited in patent literature worldwide.

These patents are the way to chart the prosperity and future for a nation because the patent holder will derive income over a period of time. From those patents spring new industries. At stake in the legislation now before Congress is whether the patent system should be used to benefit the American taxpayer and voter, or the world at large. The choice of the future is ours.—NSR

NSR FOCUS

Experts warn that the current debate in Congress on patent regulations can have a serious impact on the national security of our nation. Critics of the new system, which resulted from GATT negotiations and a deal cut with Japan last year, contend that foreign firms will gain access to American inventions, ultimately weakening the international competitiveness of the United States.

Robert Rines, an inventor and prominent Boston lawyer, claims that the new system is going to wreak havoc with breakthrough inventions, which, historically, have come from individual inventors or small firms, not from large corporations.

The U.S. system awards patents to the original inventor, not the first to file, as in other countries. Under the new 20-month publication provision, key concepts of an invention become available to anyone before the inventor has a chance to refile and win protection. That is why Japan, the multinationals and other big companies love it, and why, according to Rines, "the little guys are deathly afraid of it."

Beverly Selby's article is a fundamental document which clearly details the fear and concerns of the small businesses and American inventors, who, at the core of the U.S. innovative process, are faced with new pat-

ent provisions that fail to protect American technology and innovative small business—AACC

Ms. KAPTUR. I ask my colleagues again to support H.R. 359 and oppose H.R. 2533, and, Mr. Speaker, I would like to yield to the gentleman from New Jersey [Mr. PALLONE], who I understand has some remarks that he would like to make at this point.

□ 1530

INDEPENDENCE FOR THE BELARUS REPUBLIC

Mr. PALLONE. Mr. Speaker, I appreciate the gentlewoman yielding me this time.

Mr. Speaker, I wanted to speak, if I could for a few minutes, on the issue of independence for the Belarus Republic.

Mr. Speaker, on March 22, 1996, Belarusian President, Aleksandr Lukashenka met with Russian President Boris Yeltsin to discuss a new union state. The following day, Lukashenka met with Russian Prime Minister Viktor Chernomyrdin to discuss the plan, which would politically, economically, and culturally tie Belarus with Russia.

The collapse of the Soviet Union humiliated and disgraced this former global superpower. The Russian Duma has recently voted to declare void the 1991 agreement dissolving the Soviet Union—a declaration which America must clearly not recognize as having any validity. Now, in an attempt to save face and regain some of the lost Soviet power, President Yeltsin and President Lukashenka are acting to reintegrate the independent Republic of Belarus with Russia. This new confederacy, open to all of the former Soviet Republics, would place Russia at its core. The two leaders discussed the possibility of one currency and a single constitution.

Belarus' geographical location puts it in a particularly vulnerable position for the reintegration plan. In addition, Belarusians were the last to leave the Soviet Union, while its government has been the most willing to rejoin forces with Russia.

According to Prime Minister Chernomyrdin, the new union with Belarus and Russia would "be built from two individual countries that would remain separate."

In response to this new plan, last Sunday 15,000 members of the Belarusian Popular Front marched in the Belarusian capital of Minsk in opposition to the threat of reintegration. These marchers fear that President Lukashenka will in fact relinquish Belarus' current democratic sovereignty.

As a supporter of the American-Belarusian community, and of those members of the Popular Front, I strongly believe that we must act to prevent this new union of Russia and Belarus. Accordingly, I am drafting a concurrent resolution that expresses the sense of Congress that we recognize March 24 as the anniversary of the proclamation of Belarusian independence, express our concern over the

Belarusan Governments' infringement on freedom of the press in direct violation of the Helsinki accords and the constitution of the Republic of Belarus, and state our misgivings about the proposed association between Russia and Belarus.

Mr. Speaker, it is particularly important at this moment in history that we proclaim our strong support for the Republic of Belarus and the other Newly Independent States of the former Soviet Union. Events in both Moscow and in Minsk itself raise serious concerns about the long-term viability of an independent Belarus state and nation.

Last Sunday, I had the opportunity to attend a commemoration of the establishment of the anniversary of the Belarusian Republic, sponsored by the Belarusian American Association of New Jersey and held in New Brunswick, NJ. How ironic that the very day on which Belarusian-Americans were celebrating their heritage, Belarusians in Minsk were protesting the new union between Russia and Belarus.

On June 23, 1994, Belarus held its first multiparty Presidential elections since its independence, with a run-off election on July 10, 1994. The winner, Aleksandr Lukashanka, was a former Communist Party official and former head of the parliament's Anti-Corruption Committee. The Helsinki Commission, which observed the elections, proclaimed that the elections were conducted in conformance with international practices and that the results reflected the freely expressed will of the electorate. Unfortunately, those results have left the country with a President and government that has not shown the degree of commitment to democratic values, nor the independence from Moscow, that Belarusian-Americans and their friends had hoped for.

Last fall, Belarus suddenly made it to page 1 news when an American hot-air balloon was shot down in what seemed like an event out of the cold war. For an American public clearly not overly familiar with Belarus, this incident clearly put the county in a very bad light. Belarusian-Americans condemned this action, just as they have condemned the anti-democratic excesses of the new government in Minsk.

Clearly, Belarus is at an important crossroads. The unique language and culture of Belarus, which courageous Belarusians preserved during the years of Soviet domination, is now under attack—from no less a source than the Government of Belarus itself. While it is inevitable that the people of Belarus should feel some cultural affinity with their Russian neighbors, and seek to promote good relations in trade and other areas, the overly pro-Moscow tendencies of President Lukashanka should be questioned.

Meanwhile, the ongoing Russian military action in Chechnya raises serious questions about the possibility of imperialistic designs by Russia on

former nations under its empire—whether Czarist or Soviet. President Yeltsin, whose control over the situation seems to be less than secure, has bowed to nationalist and militarist forces in Moscow on the Chechnya question. Furthermore, President Yeltsin, whose health and popularity are both failing, may well be replaced by the Communist/Russian nationalist forces who have made no secret of their desire to reunite the old Soviet Empire.

While the official status of Chechnya as a part of the Russian Federation is different from the other independent former Soviet Republics, such as Belarus, Russian actions there are creating a very troubling precedent indicative of a desire by Moscow to reassert control over what the Russians call the near-abroad.

Since the collapse of the Soviet Union, the United States has sought to provide economic assistance to the Newly Independent States. Amid the pressures that many of these states are now under because of structural economic problems, ethnic tensions and the threat of Russian imperialism, we must maintain a strong commitment to helping these emerging nations achieve a democratic political system and a market economy. For nearly half a century, we devoted considerable sums to containing the Soviet threat. Now that the Soviet Union has collapsed, we have the opportunity, with much more modest levels of spending, to invest in the long-term stability of these formerly captive nations.

Unfortunately, events are working against us. On the one hand, neo-isolationist forces in Congress are trying to diminish the American commitment to supporting freedom and economic reconstruction in the former Soviet Empire. The Foreign Operations Appropriations bill that finally became law earlier this year, after a long delay over an unrelated issue, shows an obvious lessening of the enthusiasm for American involvement in the former Soviet Union that seemed so intense just a few years ago. On the other hand, the trends in Russia, Belarus and elsewhere against reform and towards the election of former Communists is giving our isolationist forces here strong ammunition.

March 25 is the actual date that Belarusians throughout the world salute the sacrifices and bravery of the members of the Council of the Belarusian Democratic Republic, who in 1918 liberated their country from the harsh and oppressive Czarist and Soviet rule. Representatives of the United Councils of the First Belarusian Convention, meeting in the capital city of Minsk (Minsk), issued a proclamation of independence of the Belarusian National Republic, adopted a national flag with three horizontal stripes—white, red and white—and received widespread international recognition. For the first time since 1795, the Belarusian nation re-emerged as an

independent state. Despite the hardships from the First World War and the revolutionary turmoil in neighboring Russia, the Belarusian language, culture and national identity flourished.

Unfortunately, the freedom and independence of the Belarusian nation did not last long. In 1921, Russia's Bolshevik regime invaded and conquered the newly independent state and renamed it the Byelorussian Soviet Socialist Republic. For the next 70 years, the Belarusian people endured a totalitarian Communist regime, denied the most basic civil and political rights. Millions of Belarusian nationals were exterminated. Although the Byelorussian SSR was officially considered a member of the United Nations since 1945, the country was in fact politically and militarily dominated by Moscow, with the Belarusians' aspirations for self-government and independence completely subverted.

The Belarusian Parliament initially declared its independence back in July of 1990. Following the attempted coup against Soviet President Gorbachev in August of 1991, the Speaker of the Belarusian Supreme Council, Stanislav Shuskevich invited Russian President Boris Yeltsin and Ukrainian President Leonid Kravchuk to Belarus in December 1991 to finally bury the moribund Soviet Union. In its place was established the Commonwealth of Independent States [CIS] with Minsk as its administrative seat. Although the Belarusian Parliament, as with many other emerging East European democracies, was dominated by former Communists, protections for Belarusian culture, as well as basic human rights, were enacted.

Since my wife Sarah is part Belarusian, I have had the opportunity to become particularly familiar with this proud people. The Sixth Congressional District of New Jersey, which covers most of Middlesex County, is home to a significant Belarusian-American community. Since the fall of the Soviet Union, Americans in general have had the opportunity to learn more about this distinct land and its culture. In 1994 President Clinton visited the Belarusian capital, and a variety of United States public and private sector initiatives have been launched in Belarus. Let us resolve to continue to improve the economic, security and cultural ties between the great peoples of the United States and the Republic of Belarus.

Mr. SPEAKER, I include for the RECORD the concurrent resolution.

The concurrent resolution referred to is as follows:

Whereas, the seedlings of an independent and democratic Belarus, for which generations of Belarusian patriots had fought and died, are now in danger of being swept away as a result of the policies of Belarusian President Alaksandr Lukashenka and the efforts of Russian nationalist leaders to reunite the Newly Independent States of the former Soviet Union;

Whereas, March 25 is the date that Belarusians throughout the world salute the

sacrifices and bravery of the members of the Council of the Belarusian Democratic Republic, who in 1918 liberated their country from the harsh and oppressive Czarist and Soviet rule. Representatives of the United Councils of the First Belarusian Convention, meeting in Miensk (Minsk), on March 25, 1918, issued a proclamation of independence of the Belarusian National Republic, adopted a national flag with three horizontal stripes of white, red and white, and subsequently received widespread international recognition.

Whereas, the Russian Duma in March 1996 has voted to declare void the 1991 agreement dissolving the Soviet Union;

Whereas, the Government of President Lukashenka has monopolized the mass media, undermined the constitutional foundation for the separation of powers, suppressed the freedom of the press, defamed the national culture, narrowed the educational basis for patriotic upbringing of youth, maligned the Belarusian language, and undercut the ground for all-Belarusian unity.

Now, therefore be it

Resolved by the House of Representatives, That it is the Sense of the House of Representatives that, March 25 be recognized as the anniversary of the declaration of an Independent Belarusian State;

Be it further resolved, That the United States press the Government of President Lukashenka to abide by the provisions of the Helsinki Accords and the Constitution of the Republic of Belarus and guarantee freedom of the press, allow for the flowering of Belarusian culture and enforce the separation of powers;

Be it further resolved, That the Congress of the United States join with the people of Belarus and Belarusians throughout the world in the defending the statehood and democracy of Belarus, sustaining the country's Constitution and preventing the loss by Belarus of its hard-won nationhood and its opportunity to survive as an equal and full-fledged member-state among the sovereign nations of the world.

COMMEMORATING THE ACCESSION OF THE UNITED STATES OF AMERICA TO THE PROTOCOLS OF THE SOUTH PACIFIC NUCLEAR FREE ZONE TREATY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 30 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I have just returned to Washington from the South Pacific, where I was privileged to be part of the U.S. delegation to the signing ceremonies for the Treaty of Rarotonga. I want to take this opportunity to inform our colleagues in Congress and the people of our great Nation of the historic event that took place this past Monday, March 25, 1996, in Suva, Fiji.

Mr. Speaker, on Monday, the Government of the United States of America signed the protocols of the South Pacific Nuclear Free Zone [SPNFZ] Treaty, also known as the Rarotonga Treaty, formally evidencing America's unequivocal support for the nuclear free zone in the South Pacific.

Mr. Speaker, this action by our Government constitutes a great and momentous development in the history of relations between the United States

and the nations of the Pacific region. At the Suva ceremonies, the Governments of France and Great Britain joined us in signing the protocols of the SPNFZ Treaty.

□ 1545

With this development, Mr. Speaker, all of the world's nuclear powers are now signatories to the South Pacific Nuclear Treaty.

I want to express my deepest heartfelt appreciation to the House Committee on International Relations chairman, the gentleman from New York [Mr. GILMAN] and the committee's ranking Democrat, the gentleman from Indiana [Mr. HAMILTON], for authorizing me to represent the Committee on International Relations and the U.S. Congress in this historic milestone achievement for the people of the Pacific. Coming from the Pacific, Mr. Speaker, I was deeply honored to have been extended this great privilege.

Mr. Speaker, for decades, the island nations have strived for U.S. accession to the SONFZ protocols, which symbolizes America's support of and respect for the South Pacific people's dream of a homeland free of nuclear weapons. To have played a small role in Washington over the past 8 years in bringing about the realization of these aspirations for the people of the Pacific has been a long and hard struggle, but indeed, a very worthy one.

At this time of celebration in the Pacific, I want to recognize and thank those who have contributed greatly over the years in a bipartisan spirit to this week's historic event. In particular, the following individuals must be recognized for their leadership, the former chairman of the House Foreign Affairs Subcommittee on Asian-Pacific Affairs, the gentleman from New York and former Congressman, the Honorable Stephen Solarz; former Congressman and revered champion of Pacific interests, the gentleman from California and my very good friend, the Honorable Robert Lagomarsino; and the greatly respected member of the Committee on International Relations, the gentleman from Iowa, currently chairman of the Committee on Banking and Financial Services, the Honorable JIM LEACH.

I also want to express appreciation to my colleagues and Members of this great institution—Congressmen BEN GILMAN, LEE HAMILTON, CHRIS SMITH, HOWARD BERMAN, Congresswoman CONNIE MORELLA, Congressmen GARY ACKERMAN, RON DELLUMS, DOUG BEREUTER, TOM LANTOS, PETE STARK, MATTHEW MARTINEZ, BOB UNDERWOOD, and the distinguished delegation from the State of Hawaii, Senators DANIEL INOUE and DANIEL AKAKA, Congresswoman PATSY MINK, and my good friend, Congressman NEIL ABERCROMBIE—for supporting my efforts over the years for U.S. accession to the SPNFZ Treaty.

Mr. Speaker, I also want to recognize the tremendous leadership role that

the Arms Control and Disarmament Agency [ACDA] has played in urging, since the Reagan administration, for U.S. support of the SPNFZ Treaty. ACDA has long been a crucial and vital part of several administrations' efforts to stop nuclear proliferation around the globe. While ACDA's mission is growing with greater importance—Start II implementation, chemical weapons convention ratification, and completion of the comprehensive test ban treaty negotiations and implementation—I find it an unfathomable tragedy that ACDA's funding is being butchered. Stopping proliferation of weapons of mass destruction must clearly be a top priority of our Government, and steps must be taken to ensure that ACDA will be given the resources necessary to accomplish this most urgent of missions.

Mr. Speaker, although we were not able to stop France from resuming their recent nuclear bomb detonations in the South Pacific, we should welcome the fact that Paris' irresponsible actions ignited worldwide protests and served as a catalyst for France to join the SPNFZ Treaty protocols.

Mr. Speaker, although we were not able to stop France from resuming their recent nuclear bomb detonations in the South Pacific, we should welcome the fact that Paris' irresponsible actions ignited worldwide protests and served as a catalyst for France to join the SPNFZ Treaty protocols in an attempt to defuse international condemnation.

Mr. Speaker, the international community's strong and visceral opposition to French nuclear testing sent a strong message that we have entered into a new post-cold-war era where nuclear testing and nuclear weapons development are increasingly viewed around the world as an unnecessary evil for preserving peace, stability, and freedom. Perhaps this is a lesson we can all take to heart on the eve of the 21st century.

Mr. Speaker, it is about time that the three remaining nuclear powers have finally joined Russia and China, who ironically supported SPNFZ years ago, by acceding to the SPNFZ Treaty. The fact that all of the world's declared nuclear powers are now signatories to the treaty, establishing the South Pacific's vast nuclear-free zone, cannot but be perceived positively in Geneva, Switzerland, where the United Nations-sponsored Conference on Disarmament is under way. Joining the SPNFZ Treaty is proof of the nuclear powers' good faith commitment to progress on nuclear disarmament, that should bolster efforts to negotiate a genuine "zero-yield" Comprehensive Test Ban Treaty before the end of this year.

Mr. Speaker, a couple of observations, as I have followed the question of nuclear testing for the past 8 years and diligently pursued this issue with my colleagues while serving as a member of the House Committee on International Relations. We proved in World

War II the devastating effect of nuclear weapons and their impact on human beings. The bomb the United States dropped on Hiroshima some 50 years ago killed and vaporized over 150,000 men, women, and children, and points to the stark reality of the devastation that nuclear weapons can wreak upon mankind.

Mr. Speaker, I am not one to quibble with the fact that we were at the height of a world war or that the axis powers were on the verge of oppressing all of the free people of the world and that our country was in the midst of this great war for democracy and freedom, but what basic lessons have we learned, Mr. Speaker, in perfecting how to destroy multitudes of fellow human beings by the creation of this great weapon, the atomic bomb? I wonder when we detonated what was known then in 1954 as the "Bravo Shot," where the United States was the first nation to explode a thermonuclear device, which was then known as the hydrogen bomb, what was gained for mankind while the people of the Marshall Islands suffered from these hydro tests in their homeland?

I also wonder, Mr. Speaker, at this point in time in our history whether nuclear weapons really provide security for the American people as well as the other nations of the world. I am concerned, Mr. Speaker, about the fact that we have perfected the use of nuclear weapons and their destructive powers, just as we have made, I am sure, earnest efforts to harness peaceful uses of nuclear energy to improve living conditions for mankind.

At the same time, Mr. Speaker, we are now capable of exploding a thermonuclear device 1,000 times more powerful than the atom bomb that we dropped on Hiroshima. What does that mean, Mr. Speaker? It means that we have perfected a device to hand down to generations to come so that we can kill other human beings by the destructive nature of the atom and hydrogen bomb.

I am concerned, Mr. Speaker, about the fact that the Western nuclear powers condemn China now for continuing its efforts to perfect its nuclear devices, while the United States, for example, allocates a tremendous amount of our military budget to maintain our distinct and unchallenged nuclear technology supremacy. I find this hypocritical, Mr. Speaker.

Mr. Speaker, while we harnessed nuclear energy for the benefit of our citizens to provide electricity for our homes, our Government also has to deal with the reality that it is going to take approximately \$350 billion of the American taxpayers' money to clean up and store the spent nuclear waste that is in our own country. This is just in our own country. It does not even address the issue of other nations currently using nuclear energy for electrical production.

So we seem to be at a crossroad now, Mr. Speaker.

Mr. Speaker, where is it going to end, or when is it ever going to end? We need to bring the nuclear nightmare to an end and regain some sense of morality among nations of the world, so that peace can be attained in a constructive fashion. We cannot continue with this idea that we are going to win and they are going to lose if we press that nuclear button first.

Mr. Speaker, I submit whoever presses that nuclear button, it is going to be a lose/lose situation for all of the nations of the world. I sincerely hope that perhaps having nuclear-free-zones, like the South Pacific nuclear-free-zone, throughout the world will be a positive step for peace and stability in the world. We should all take a minute and say to ourselves, let us hold back, let us have a sense of better control of what we are doing, especially since we have already proven the destructive nature of nuclear weapons. We do not need to prove this again, as we did in World War II among the people that lived in Nagasaki and Hiroshima.

I pray, Mr. Speaker, that my colleagues will help in our efforts to see that perhaps the five nuclear nations and the other undetected nations who have the capability for nuclear destruction, will provide a very strong and binding commitment that we will not spread this evil cold danger to other nations of the world.

Mr. Speaker, I include the following material for the RECORD:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, May 27, 1993.

Hon. WARREN M. CHRISTOPHER,
Secretary of State, Department of State,
Washington, DC

DEAR MR. SECRETARY: We write to recommend an early review of U.S. policy toward signature of the Protocols of the South Pacific Nuclear Free Zone (SPNFZ) Treaty.

Such a review would appear to be appropriate not only in the context of non-proliferation policy but also because of the relevance of SPNFZ to U.S. relations with the South Pacific. SPNFZ is a significant non-proliferation measure and any support the U.S. can lend to it would strengthen the cause of non-proliferation in the region. It would also contribute to support for the extension of the Non-Proliferation Treaty in 1995. Given the importance of SPNFZ to South Pacific Forum members, U.S. accession to the Protocols would enhance U.S. influence and credibility in the South Pacific.

As we understand them, the provisions of the SPNFZ Treaty and its three Protocols do not appear to be inconsistent with U.S. national interests. The Treaty specifically respects states' rights under international law to freedom of the seas and leaves it up to individual signatories to decide whether to allow foreign ships and aircraft to visit or transit their territory.

We note that, at the hearing of the Foreign Affairs Committee on 18 May, you said the U.S. was not at odds with the basic thrust of SPNFZ. You did, however, express concern about the Treaty's possible impact on the U.S.'s operational flexibility and freedom in the South Pacific.

We would be interested in understanding the nature of the Administration's concerns about operational flexibility for U.S. forces in the South Pacific, and are interested in working with you in support of a policy re-

garding the SPNFZ Protocols that protects and promotes U.S. interests in the South Pacific and enhances U.S. non-proliferation objectives.

We are writing a similar letter to the Secretary of Defense.

With best regards,

Sincerely yours,

BENJAMIN A. GILMAN.
JIM LEACH.
LEE H. HAMILTON.
GARY L. ACKERMAN.
ENI F.H. FALEOMAVAEGA.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 24, 1995.

Ambassador RALPH EARLE II,
Head of Delegation, U.S. Delegation to the Nuclear Non-Proliferation Treaty Extension Conference,
New York City, NY.

DEAR AMBASSADOR EARLE: It is my understanding that, in conjunction with the Nuclear Non-Proliferation Treaty Extension Conference proceedings being held in New York, there shall be convened a working group focussing on nuclear-weapon-free zones.

As a member of the House International Relations Committee, I am writing to urge that the U.S. delegation take an active role in those discussions and strongly support the use of nuclear-weapon-free zones as a non-proliferation tool.

Treaty-based nuclear-weapon-free zones with adequate verification safeguards have already proven effective in preventing spread of nuclear weapons and serve to assist efforts "rolling back" existing proliferation.

As you know, the U.S. has supported establishment of nuclear-weapon-free zones around the world, including those in Antarctica, the seabed and outer space. We are also a signatory to the Treaty of Tlatelolco, which prohibits nuclear weapons in Latin America. The White House has recently lauded the Latin America Nuclear-Weapon-Free Zone as a critical building block of peace and stability throughout the Western Hemisphere which reinforces the worldwide non-proliferation regime.

I have long urged that our government should also join the South Pacific Nuclear-Free Zone created by our allies through the Treaty of Rarotonga. The protocols to the Rarotonga Treaty are substantially identical to our commitments under the Latin America Treaty. In the post-Cold War era, the Soviet nuclear threat in the Pacific no longer exists, overcoming past justification for not joining the Treaty of Rarotonga.

At a time when it is crucial that the U.S. utilize all resources to forge a majority for indefinite extension of the NPT, joining the South Pacific Nuclear-Free Zone Treaty would materially enhance U.S. credibility, gain international goodwill and act as visible proof of America's commitment to nuclear arms controls.

Ambassador Earle, I wish you the very best in your discussions regarding nuclear-weapon-free zones and the benefits of their formation around the world, in particular in the Middle East, Southeast Asia, Africa, and the South Asia Subcontinent. I further commend you and the delegation for your efforts leading to permanent establishment of the NPT, a mission of utmost urgency and importance to our nation and the world.

With best personal regards,

Sincerely,

ENI F.H. FALEOMAVAEGA,
Member of Congress.

HOUSE OF REPRESENTATIVES,
 Washington, DC, September 20, 1995.
 Hon. WILLIAM J. CLINTON,
 President of the United States,
 The White House,
 Washington, DC.

DEAR MR. PRESIDENT: We write to recommend that the long-pending review of U.S. policy toward the South Pacific Nuclear Free Zone (SPNFZ) Treaty be brought to a close, and would strongly urge that our nation sign the Protocols to the SPNFZ Treaty.

The review was appropriate due to our non-proliferation policy and the relevance of SPNFZ to U.S. relations with the South Pacific. We feel SPNFZ is a significant non-proliferation measure and any support the U.S. can lend to it would strengthen the cause of non-proliferation in the region.

The provisions of the SPNFZ Treaty and its three Protocols are not inconsistent with U.S. national interests or present security practices. The Treaty specifically respects states' rights under international law to freedom of the seas and leaves it up to individual signatories to decide whether to allow foreign ships and aircraft to visit or transit their territory.

While the U.S. has yet to act on the SPNFZ Protocols, ironically, both China and Russia are signatories. The U.S. is, however, a signatory to the Protocols of the Latin America Nuclear Free Zone Treaty, substantively the same as SPNFZ, which your administration has lauded as a critical building block for peace and stability in our backyard, the Western Hemisphere.

Given the importance of SPNFZ to South Pacific Forum nations, U.S. accession to the Protocols would enhance U.S. influence and credibility in the Pacific. Moreover, U.S. accession to SPNFZ would bolster progress on global non-proliferation measures, including the indefinite extension of the Non-Proliferation Treaty and negotiation of a zero-yield Comprehensive Test Ban Treaty. In light of France's decision to support a zero-yield CTBT, the time is particularly right for the U.S. to accede to SPNFZ.

We thank you for your consideration of this request and urge timely action.
 Sincerely,

ENI F.H. FALEOMAVAEGA.
 LEE H. HAMILTON.
 JAMES A. LEACH.
 CHRISTOPHER H. SMITH.
 ROBERT A. UNDERWOOD.
Members of Congress.

THE WHITE HOUSE,
 Washington, November 7, 1995.
 Hon. ENI F.H. FALEOMAVAEGA,
 House of Representatives,
 Washington, DC.

DEAR ENI: Thank you for your letter regarding the South Pacific Nuclear Free Zone (SPNFZ) Treaty.

On October 20, 1995, the United States, France and the United Kingdom jointly announced our intention to sign the relevant protocols of the SPNFZ Treaty in the first half of 1996. This announcement reflects a number of positive developments that have occurred recently, such as the extension of the Nuclear Nonproliferation Treaty indefinitely and without condition and progress on a Comprehensive Test Ban Treaty.

I appreciate your efforts in support of SPNFZ and look forward to working with Congress to achieve ratification of the SPNFZ protocols.

Sincerely,

BILL.

U.S. ARMS CONTROL AND
 DISARMAMENT AGENCY,
 Washington, DC, December 8, 1995.
 Hon. ENI F.H. FALEOMAVAEGA,
 Committee on International Relations,
 U.S. House of Representatives.

DEAR CONGRESSMAN FALEOMAVAEGA: I wanted to convey my admiration for and congratulations upon your tireless efforts to achieve formal U.S. adherence to the Protocols of the Treaty of Rarotonga. As you know, the U.S. was able to declare its intention on October 20, 1995 along with the United Kingdom and France, to sign the Protocols in the first half of 1996.

The United States has always respected the goals and the spirit of Rarotonga. As we stated in 1987, our activities in the region were not inconsistent with the Treaty. That is, however, a long way from assuming the legal obligations of the Protocols and thereby conferring the full legal and political support of the United States. Now, the U.S., U.K. and France will sign the Protocols together, and at a stroke bring all five nuclear weapon states in accord with the solemn commitments and obligations undertaken by the states of the region.

I am extremely gratified that the United States of America can formally adhere to this important regional denuclearization treaty, and am pleased that my Agency was able to play a crucial role in this decision. Your efforts have contributed greatly to this momentous decision, and I again offer my congratulations.

Sincerely,

JOHN D. HOLUM.

THE WHITE HOUSE,
 Washington, March 24, 1996.
 Hon. ENI F.H. FALEOMAVAEGA,
 House of Representatives,
 Washington, DC.

DEAR ENI: Last fall I promised to keep you informed of developments regarding the South Pacific Nuclear Free Zone (SPNFZ) Treaty. I am pleased to advise you that on March 25 the United States will join France and the United Kingdom in signing the relevant protocols to this Treaty at a tripartite ceremony in Fiji.

Last year's NPT Review and Extension Conference agreed that internationally recognized nuclear free zones, based on arrangements fully arrived at among the states of the region concerned, enhance international peace and security. The Conference also agreed that the cooperation of all the nuclear weapon states and their respect and support for the relevant protocols are necessary for the maximum effectiveness of such zones.

Our decision to sign the SPNFZ protocols demonstrates our clear support for a nuclear weapons-free zone in the South Pacific, our commitment to nuclear nonproliferation and our determination to achieve a Comprehensive Test Ban treaty mandating a permanent end to nuclear testing throughout the world.

I appreciate your strong support for the important step we will be taking on March 25.

Sincerely,

BILL.

HOUSE OF REPRESENTATIVES, COMMITTEE ON INTERNATIONAL RELATIONS,
 Washington, DC, March 28, 1996.
 Hon. ENI F.H. FALEOMAVAEGA,
 Washington, DC.

DEAR ENI: I am writing to congratulate you for the superb work you have done over the years on behalf of the South Pacific Nuclear Free Zone Treaty—work whose culmination we witnessed earlier this week when the United States joined France and

Great Britain in signing the three SPNFZ protocols.

It was only fitting that you should have been in Suva to participate in this ceremony.

You have been an eloquent and impassioned voice on this issue, and all of us are very much in your debt.

So please accept my hearty congratulations for a splendid job and a successful conclusion to your labors.

I look forward to your leadership on many other issues in the days ahead.

With best regards,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

H. CON. RES. 111

Whereas the nations of the South Pacific, which share with the United States a strong interest in nuclear non-proliferation, have negotiated and signed the Treaty of Rarotonga, establishing a South Pacific Nuclear Free Zone;

Whereas the Treaty of Rarotonga came into force on December 11, 1986, and has been ratified by 11 nations;

Whereas the Treaty of Rarotonga prohibits the testing, manufacture, acquisition, and stationing of nuclear weapons in the territory of parties to the treaty and the dumping of radioactive wastes at sea;

Whereas the 3 protocols to that treaty, which are open for ratification by nuclear-weapon states, require that those nuclear weapon states that ratify those protocols abide by the treaty's provisions in their territories in the region, not contribute to violations of the treaty or threaten to use nuclear weapons against its parties, and refrain from testing nuclear devices in the zone;

Whereas the Treaty of Rarotonga does not prejudice or in any way affect the rights of all nations to freedom of the seas under international law and leaves to each party policy decisions on visits or passage through its territory by foreign ships and aircraft;

Whereas the establishment of verified nuclear-weapon-free zones can reinforce the international norm of nuclear nonproliferation and build consensus for long-term extension of the Nuclear Nonproliferation Treaty (NPT) when reviewed for extension by its members in 1995;

Whereas the United States leadership to extend the Nuclear Nonproliferation Treaty would be further enhanced if United States signature and ratification of the protocols were part of an overall nonproliferation policy that included negotiations on a comprehensive nuclear test ban;

Whereas Article VII of the Nuclear Nonproliferation Treaty affirms "the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories," and state parties to the Treaty of Rarotonga have implemented a safeguards agreement for the region with the International Atomic Energy Agency;

Whereas it has been the policy of the United States to favor the establishment of effective nuclear-weapon-free zones in regions of nonproliferation concern and where such zones would enhance international stability and security;

Whereas the United States has set forth 7 criteria whereby the effectiveness of proposed nuclear-weapon-free zones will be judged, as follows: (1) the initiative is from the nations in the region, (2) all nations whose participation is deemed important participate, (3) adequate verification of compliance is provided, (4) it does not disturb existing security arrangements to the detriment of regional and international security, (5) all parties are barred from developing or possessing any nuclear device for any

purpose, (6) it imposes no restrictions on international legal maritime and serial navigation rights and freedoms, and (7) it does not affect the international legal rights of parties to grant or deny others transit privileges, including port calls and overflights;

Whereas the United States has signed and ratified the protocols to the Treaty for the Prohibition of Nuclear Weapons in Latin America (the Treaty of Tlatelolco), establishing a nuclear-weapon-free zone in Latin America, whereby the United States committed itself not to test, manufacture, acquire, or store nuclear weapons in its territories in the region (namely Puerto Rico and the United States Virgin Islands), not to contribute to any violation of the treaty, and not to threaten to use nuclear weapons against the parties;

Whereas the United States is also a party to the Antarctic Treaty, the Seabed Arms Control Treaty, the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, which preclude nuclear weapons from these regions;

Whereas support for these nuclear-weapon-free zones does not prejudice United States policy with respect to other proposed nuclear-weapon-free zones, each of which must be judged on its individual merits in accordance with United States national interests;

Whereas in order to maintain the security of United States military forces and their ability to contribute to nuclear deterrence, the United States must preserve the principle of neither confirming nor denying whether particular United States naval vessels or other military forces possess nuclear weapons;

Whereas the protocols to the Treaty of Rarotonga do not conflict with the United States policy of neither confirming nor denying the presence of nuclear weapons on United States vessels or aircraft and do not prohibit any current or anticipated activities in United States territories in the South Pacific or elsewhere in the region; and

Whereas past administrations have stated that while the United States could not, under circumstances prior to the cessation of the Cold War, sign the protocols to the Treaty of Rarotonga, United States practices and activities in the South Pacific Nuclear Free Zone region, then and now, are consistent with the treaty and its protocols: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) it is the sense of the Congress that—

(1) the Treaty of Rarotonga is consistent with United States security commitments in the South Pacific since it does not prohibit port calls by naval vessels which are nuclear powered or may be carrying nuclear weapons and does not create other impediments to United States military operations in support of the Security Treaty between Australia, New Zealand and the United States (ANZUS Treaty);

(2) the Treaty of Rarotonga satisfies the 7 criteria, set forth in the preamble of this resolution, which have been established by the United States Government for judging the effectiveness of proposed nuclear-weapon-free zones;

(3) signature and ratification of the protocols to that treaty would be in the national interest of the United States by contributing to a comprehensive United States nonproliferation policy that would enhance prospects for extending the Nuclear Nonproliferation Treaty in 1995, particularly if such a policy were to include negotiations on a comprehensive nuclear test ban agreement; and

(4) signature and ratification of the protocols would not prejudice United States policy

with respect to proposals for nuclear-weapon-free zones in other regions, such as those in which the presence of an effective nuclear deterrent has contributed to United States national security by enhancing stability.

(b) Noting that the executive branch has indicated that United States practices and activities in the region are consistent with the Treaty of Rarotonga and its protocols, it is therefore the sense of the Congress that the United States should sign and ratify the protocols to that treaty.

[From the Christian Science Monitor, Jan. 11, 1994]

ENSURING STABILITY IN THE PACIFIC (By Eni F.H. Faleomavaega)

In the afterglow of the recently concluded Asia-Pacific Economic Cooperation meetings and the North American Free Trade Agreement, a new era of increased trade and economic growth is dawning. But the vision of Pacific prosperity is impossible to realize unless a foundation of peace and stability can be ensured. For half a century, the United States has provided this crucial element of security in the Asia-Pacific region, directly aiding the dynamic growth of Asia's economies. The US should build on this legacy by supporting the security arrangements necessary for economic prosperity.

Nuclear proliferation is a major threat to Pacific and US security, as exemplified by the crisis over North Korea. The Clinton administration has urged the indefinite renewal of the Nuclear Non-Proliferation Treaty and negotiation of a Comprehensive Test Ban Treaty. To bolster US nonproliferation policy, the president also should build support for nuclear-weapon-free zones and join the existing nuclear-free zone in the South Pacific.

Eleven Pacific island nations are members of the Rarotonga Treaty, establishing the South Pacific Nuclear-Free Zone (SPNFZ), which bans the testing, stationing, or use of nuclear weapons in the zone. The treaty, a symbol for the peoples of the South Pacific, expresses their repudiation over nuclear weapons and the possibility of a nuclear holocaust in the region. With France and the US having detonated more than 100 nuclear bombs in the South Pacific, the nations there have gained a firsthand appreciation of the hazards of nuclear weapons.

Since the treaty took effect, the island nations have eagerly sought US support for a nuclear-weapon-free South Pacific. By refusing to sign the treaty, the US is increasingly perceived as indifferent to the aspirations and concerns of its South Pacific allies—many of whom fought at our side during World War I, World War II, the Korean War, and the Vietnam War, and supported America in the cold war. Ironically, Russia and China have signed the treaty.

The treaty would advance US nonproliferation objectives without undermining US security policy in the South Pacific, as past administrations have conceded when testifying before Congress. It was carefully drafted to accommodate US interests, including our policy to neither confirm nor deny the presence of nuclear weapons on US warships or aircraft; and it protects free transit through the zone by US vessels and planes carrying nuclear weapons.

The US already supports nuclear-weapon-free zones around the world, and has signed treaties prohibiting nuclear weapons in Latin America, the Antarctic, the ocean floor, and outer space. Furthermore, the US supports creating nuclear-weapon-free zones in South Asia, the Middle East, and Africa. With the end of the cold war, justification for much of America's reluctance to join the SPNFZ has evaporated. The Soviet nuclear

threat in the Pacific no longer exists. Instead, the US and Russia are committed to keep reductions in their nuclear arsenals, the US has removed tactical nuclear weapons from its surface fleet, and all nuclear-weapon states except China are observing a nuclear-testing moratorium.

If the US is serious about promoting nonproliferation and free trade, then it should make use of nuclear-weapon-free zones that enhance the security that makes economic prosperity possible. Signing the Rarotonga Treaty would be an important step toward realizing the promise of a secure and prosperous "New Pacific Community."

PROTECT OUR AMERICAN TROOPS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN. Let me adjust my gig line here for this prestigious well of the world's greatest legislature, straighten my First Armored Division pin, still thinking about bringing the men and women home from Bosnia, where European men and women should be doing the miserable ground duty while we do everything else, like air power, sea power, all the airlift, 99 percent of it, 99 percent of the ships at sea, most of the hospital supplies, the food, the fuel, most of the munitions, and of course 100 percent of the intelligence from our satellite architecture down to unmanned aerial vehicles like the fantastic predator program.

□ 1600

Why do American men and women have to be on the ground missing Easter with their families as they missed Christmas? So I guess we can free up European young people to work on the assembly line at places like Ferrari and Fiat, Jaguar, Rover, Rolls Royce, and the big-five in Germany, Mercedes, Audi, BMW, Volkswagen, and who am I forgetting? Porsche. We do not want to take people from those assembly lines, shipping products over here.

Let us just bankrupt the American people and pour our money into Haiti. The money we sent to Rwanda, they are back killing one another. Somalia, the fighting goes on without the BBC or the CNN cameras. And in Bosnia, 19 young people have died, two of them Americans, one from an accident, one a hero, Sergeant Donald Dugan of—his initials are D-A-D, dad. He left four sons behind. Donald A. Dugan. First Sergeant of the First Squadron of the First Battalion of the First Cavalry of the First Brigade of the First Armored Division, and he was an A troop to boot and was one of the first Bradleys. A picture of him in the turret crossing the Sava River right after Christmas.

Mr. Speaker, his last words—I learned this in Bosnia about a few weeks ago. His last words were to some children. He did not know whether they were Muslim heritage children, who are really Serbians who adopted the Islamic faith so that the Turkish

Ottoman empire would not confiscate their property. He did not know if they were Serbs of the Muslim faith or Serbs of the Orthodox Christian faith, or Croatian children of the Roman Catholic faith. He did not know what they were. He just knew they were children. His nickname was MacGyver, after the television series hero Richard Dean Anderson who played the swashbuckling expert with munitions, that was his proud name in the First Division, MacGyver. And Don Dugan, his last words to these children, he motioned them back, and he said mine, probably his own ethnic universal word for mine, mine. He says mine, boom, boom, boom, and then indicates get back. And the next boom was a real one tearing part of his face off.

And he had told his friends, they told me over there because I did not like the way the Clinton administration was putting a spin on this, that he had done something wrong so do not blame Bill Clinton. He had told his friends, our job here is to make this battlefield safe for children. We are going to get rid of these mines.

Now, that is not what he was sent there for, and he did not die in vain if all the other young men and women there take Donald Dugan's heroic death to heart and stay on the roads and stay out of the mine fields. He had marked this mine earlier, cut a trip wire from the mine set waist high in a tree to a barricade. There were cattle in this field. Kids are out. He cut that, marked the mine with a white flag. But then this thought kept coming back to his MacGyver nature, and he went back to the mine while his friend was around behind a building answering nature's call. And when his friends came back around, there was Don in the prenatal position bent over. The mine he tried to disarm, almost instantly killed by the blast.

Now, why in the name of heaven other than campaigning was Miss Hillary and their beautiful teenage daughter, Chelsea, what were they doing in a dangerous combat theater, graciously received by our troops, of course, as the President was graciously received and the men telling me, is he not here just to get reelected? Are these photo ops for him? Well, she was there. It is election year.

And we have not seen the end of Air Force One at tremendous expense to the American taxpayers, all the administration does this is a bipartisan, shameful way. I think that during the election year, there should be a hired campaign plane, as BOB DOLE, the majority leader, does, not use a congressional airplane. He uses a fully paid for campaign airplane. And when Mr. Clinton is going out on a fully paid campaign trip, it should be a hired, safe, four-engine, two-engine 757, 767, paid for by the millions of dollars flowing into the Clinton coffers by Republican businessmen saying, just in case you win, do not hurt us too much with your socialist liberal beliefs.

It is outrageous that all he pays, Clinton, is a first-class air ticket, and his purely campaign staff pays a first class air ticket, like 750 bucks from here to California. But all the rest of the people on this 747, and he has five others, six 747's at the disposal of the President.

Mr. Speaker, I told Mr. Bush when we flew from Chicago to here that it was excessive. He agreed. I said you ought to dump these 747's. You should have one or two E-4's, command and control birds, and one 747 for international trips only kept at Andrews and for domestic flying. You should have a Presidential 747, 757, not going to buy a French Airbus, and you should use Lear jets. Not Lear jets, the Gulfstream. And President Bush said, well, that is my favorite airplane. I like to fly on the C-20 Gulfstream because then I do not have the press on the airplane with me all over my back. Let them charter their own DC-10 as they do as backup, but selected press at a first-class air ticket paid for by the networks that are all money machines. They make so much money, they all get on the airplane in favored status.

I remember when I went at the 50th anniversary in Omaha Beach and the Normandy D-day landings and first we went down to Anzio to the Anzio cemetery. BOB DOLE spoke there the next day because that is where a lot of his friends were buried. And here at the airport at Naples were to 747's nose to nose, that beautiful Air Force One paint job on both, filled with prepubescent staffers who never served in the military, ditch the ceremony at the Anzio cemetery and went into Naples.

Then the same thing up in France. Half of the 700 people that went with the Presidential group to Normandy, half of them went into Paris and never made it to the 50th anniversary of D-day. Another one of those photo opportunities using our fine young men and women in uniform. And they say now that the Clinton campaign plan is to surround him with uniforms, school children in uniform, police, law enforcement people in uniform, and to use our U.S. military forces to get him around people in uniform and then maybe the triple draft dodging issue will never come up. Not as long as I am alive, have my health and have this well and various other media outlets around the country.

Now, Mr. Speaker, a friend of mine, Owen Frisbee, passed me in the hall and said, did you hear Paul Harvey in the last few days? He said, here is something that he said on his radio show recently that I think is worth a House resolution, a Senate resolution, a joint resolution to let the whole country know this before all the 50th anniversaries of the end of World War II are gone.

This is the year of the anniversary of Winston Churchill's great speech at a small college in Missouri named after Westminster, England, Westminster

College. It was there on my dad's birthday in March 1946, 50 years ago this month, that Churchill created that memorable sentence. He said the Communists have drawn a line from Stetyn in the Baltic down to Trieste on the Adriatic, an Iron Curtain has fallen. And fall it did. And more people died under the heel of Stalin before, during and after World War II times multiple factors than died under the tyranny of Hitler's vicious demonic 12-year Reich. Fifty-five million died because of the warlords in Japan, Mussolini's facism, Hitler's Nazism, but there were a lot of Americans naive enough to believe that Uncle Joe Stalin was not the fourth tyrant, creating the bloodiest century in all of civilization's history.

Here is what Paul Harvey said, for perspective. Hitler's Nazis must not be forgotten for their slaughter of some 6 million Jews. Six million other people, including Protestant ministers like Dietrich Bonnhover or Catholic priests like St. Maximillian Colby. I was there at the Vatican when he was elevated to sainthood, standing next to the man he saved in Auschwitz. Said to the German guards he spoke 10 languages, in German. Let me go, this man is married and has 10 children. His children were there with him. His wife was still alive. The man is still alive.

They said to Colby, the Nazi Gestapo guard was so taken aback, or SS guard, he said: Fine, you die in his place. And they put him in a cell. I went to that room. There is a beautiful bas relief, marble relief on the wall. There were some votive lights burning, a few aging flowers. The very bunker cell where they locked up Maximillian Colby, Father Colby and 10 others, and they allowed them to just starve over 10 days to 2 weeks. There were so skinny, it did not take the usual 3 weeks of you starving. And they came in and Father Colby was the last one still alive. And they injected him with air into his veins and he expired, dying in Christ's footsteps that he would give his life, John 15:13, so that another man may live.

While I am holding Mother Teresa's hand, I looked at this man. What day was that? October 10, 1982. Priest, priests, ministers, not just 6 million Jews were killed, 6 million other nonJews. But the Jewish slaughter has this ring of the Holocaust because they were targeted for death only because of what God had made them, people of Hebrew heritage. Unbelievable.

So I digress. Let me come back to Paul Harvey and start at the top. For perspective: Hitler's Nazis must not be forgotten for their slaughter of some 6 million Jews. For perspective, let history not forget that Russia's Communists, since the Bolshevik revolution of 1917, have killed over 100 million people, 6 million European Jews slaughtered by Hitler, men, women, and tiny little babies, children, 100 million, including women and children and little babies slaughtered by Russia's Communists.

So an effort is underway in Washington, DC, a memorial honoring Communism's victims and a reminder of another evil which free people must ever oppose, still oppose. Today in Russian, today in Vietnam, as I testified this morning, not to put another nickel into the U.S. embassy in Hanoi. Not another dime into our diplomatic mission there until the Communists in Hanoi account for our missing in action.

They can solve hundreds of cases out of the 2,140, hundreds of cases, 3,400 at a minimum this very day. They could solve these cases and bring instant relief to these heroes' families who are heroes themselves, the missing in action families, Communist Cuba. You notice the Communist Cubans out of Hanoi withdrew their protest at the United Nations that those three American aircraft were in Cuban waters. Not. They were in international waters. We proved it with hard copy from radar images and they withdrew their complaint, which means that Fidel Castro, through his officer corps of Communist officers, sell-outs, Judases every one. He ordered American aircraft, licensed in America, built in America, flown by Americans of Cuban birth and heritage, ordered them murdered.

That is the style of Castro, first degree murderer. And that is what Paul Harvey is saying to the largest radio audience on the planet Earth, a reminder of another evil, Communism, which people must ever oppose. In Point du Hoc, North Korea and that part of the Korean peninsula that they still crush with human rights violations, the sad little islands of Cuba, those 11 million people who bathe in sunlight and no freedom. And an emerging Communist Party crawling out from under the bloody rocks of most of this century of death trying to rebuild itself in Russia, and in a few other countries in that area. And the Communism of Vietnam and the Communism of the world's largest nation.

The United States will soon pass 266 million people. China has 266 million plus a billion. Five times the size of the United States. Go to a store at Disneyland or Disney World. Pick up the expensive china. Made in China, where china comes from. Pick up the tiniest little refrigerator magnet, made in China.

□ 1615

Pick up a pencil curled in Mickey Mouse's ears, China, China, China, the most expensive toys, the cheapest toys, the stuffed animals, the expensive sweaters, shirts. China, China, China, where women work at slave labor wages exactly like the worst scandals in Dickens's England or the turn of this century and child labor as bad as any of the worst periods of this century or during the industrial revolution in Europe. Excellent, excellent commentary, Mr. Harvey.

Then not to be commenting upon tragic world-sweeping issues, Paul Har-

vey delivers the following short essay that is worthy of repeating in the well of the U.S. House of Representatives. Paul Harvey, again, the new protection racket, I want to mimic that inimitable great style of his that has become an institution, he says, Mr. Harvey, fear-mongering is unforgivable, whether by pessimistic politicians or unscrupulous booksellers or by scientists. Anybody who tries to come between you and your money by scaring you is a con man.

The winter of 1996, unprecedented blizzards marched across our Nation. Vast areas disappeared under a blanket of white, and airports became refugee centers and firefighters had to locate fire hydrants with metal detectors. It was so cold in Minnesota, somebody used a frozen banana to pound a spike into 5/8ths plywood thickness, yet undoubtedly, some scientists were insisting that our planet is threatened with global warming.

If Mr. Harvey will allow me, the inimitable Jay Leno, closet conservative, opened his show in New York one night in the middle of the blizzard, saying, by the way, an announcement New York's global warming conference is canceled until further notice. Big laugh, of course, from the audience. Mr. Harvey continues, anybody involved with government grants or private foundation money is constantly besieged by the fear-mongers. They have learned that if they can frighten us enough we will pay whatever it costs for protection.

Mr. Patrick Michaels is an exception, Virginia State climatologist, Mr. Patrick Michaels has researched global climate for many years. He expects that there will never be an agreement among scientists on anthropogenic climate change. He notes a 1990 report about global warming in which scientists were utterly unable to agree on why our Earth had warmed one half a degree Celsius over the past 100 years. Quote, they still cannot agree, unquote.

I hope my classmate, AL GORE, who served in this House for 8 years, I hope he is listening tonight. Vice Presidents sometimes have afternoons to kill, and maybe out of sheer nostalgia he tunes in the House floor or the Senate that he went off to 1984.

Satellite records, Mr. Harvey continues, are our present best way to measure the Earth's temperature. They, in use since 1979, show that our world has in fact been cooling further. The Arctic, which, by the way, I sailed under the North Pole with the aforementioned AL GORE when he was a lowly Senator just the two of us, on codel DORNAN, went up there. I put him in the cockpit of a B-1 at Grand Forks, ND. He had never seen one. He was described on Meet the press as an expert in strategic areas. I took him down into a missile ICBM silo. This was in 1989. He had never seen an ICBM armed, armed, cocked, fired ready to go at some target on the other side of the Iron Curtain, and that I mentioned

Churchill's description of what was behind the Evil Empire, and AL and I learned a lot on that Arctic trip.

So further, the Arctic, where scientists say most warming should be happening, has seen no warming whatsoever in the past 50 years. The polar ice caps are not, not is underlined for Harvey's emphasis, not melting.

Now, the disciples of global warming, unquote, to perpetuate their profitable false alarm, are trying to contend that this year's record cold and snow are actually the result of global warming. Now, how are they going to explain this? They say their computers show global warming causes blizzards and extreme cold. Well, Harvey says, any computer geek, expert or novice, knows that computers are programmed by people. They do what humans direct them to do, and because scientists are feeding their own measurements into the computers their predictions are no more accurate than their own fuzzy logic.

The science of global climate change is complex. We are still learning how parts of our atmosphere interact. Yet all human experience suggests that there would be fewer major snowstorms in a greenhouse world. Somewhere up the road ahead other scholars may decide that planet Earth is cooling instead, but presently they have far too much invested in global warming theories to let go. Fear begets money, money to fund hundreds of millions of dollars' worth of research work being done by universities, by environmental organizations, and Government Agencies with U.S. hard-working taxpayers' dollars. Their jobs depend on keeping you scared.

Al Capone's enforcers used fear to force shopkeepers to buy insurance. Should you, the taxpayer, refuse to pay, they might smash your knees with a baseball bat. Today, you pay protection money in research grants, organization dues, or taxes. You are threatened with an impending apocalypse.

Perhaps the most negative of the new protection rackets is the degree to which eventual public disillusion may discourage investment in more legitimate research. Excellent. Thank you, Mr. Frisbee, for giving me what I missed on Harvey's broadcast.

Ladies and gentlemen, if you saw Meet the Press last Sunday, you were stunned, as I was, the two main guests were our colleague here, JOHN KASICH of Ohio and Pat Buchanan. But at the end of it Tim Russert, who mercifully escaped the acid tongue of Don Imus, at the most peculiar banquet, roast or dinner ever held inside the Beltway. Somebody taped it for me. I can hardly wait to see it given some of the blood-thirsty descriptions of what New York City's longest-running talk show host did to everybody in both parties from the White House down to Tim Russert. He said Tim Russert's job, somebody told me when he worked for a Senator, it was to hide the booze bottle. House rules and good taste prevent me from

repeating the name of my Senate friend in the other party, and they said his job for the former Governor of New York was to hide the bodies. He left no dignity, I guess, with Bill Clinton and NEWT GINGRICH sitting on one side. Imus, I understand, absolutely dumped a load of concrete all over the dais and the various Senators and media people in the audience. I understand he lectured one of the people on 60 Minutes that he was a newsman and not a pirate, so stop wearing an earring. I understand they laughed at that. But other than that they were pretty frozen by that point in the program. Anyway, he dumped on Russert more gently than others, I think. I think Tim Russert is probably one of the better hosts on Meet the Press that they have ever had. He is fair and a loyal Catholic, pro-life. I am a little prejudiced in his favor. At the end Mr. Russert says through an unidentified man, do we believe American values in some sense need reforming? He cuts to a very young Jerry Brown with a full head of dark hair, not the shaved head we see today in the prison denim shirt that is Jerry Brown's new image.

During the campaign for the Presidency, 4 years ago, it was white turtle-necks and a 900-number. Now it is a shaved head and a prison shirt, a bright guy, Jesuit-trained, just like yours truly. I must give you the date first: October 5, 1975, 20 years and 5 months ago. He says, I think American values need reassertion in terms of their fundamental roots. I think there has been an overemphasis on the ability of material comfort, on the ability of our economic machinery to provide human happiness. Sounds more like Pope John Paul or Billy Graham than the youngest Governor ever to serve in our biggest State, which had become the biggest State during the prior Governor, Ronald Reagan. Let us see, Jerry Brown was 36 when he got elected; he was in office 1 year. So he is 37 years old, he says, and I would not call it a reform in the sense it is something new, but it is a returning to a traditional view of human nature, that looks to fundamental principles, to right and wrong, to ethics, to morality, to a sense that human nature is constant. It, human nature, is weak. This is the reflection of our Jesuits in that period teaching us about original sin. It needs a type of government that recognizes that mankind is really brought down by its own instincts, and we ought to recognize that. Jerry Brown closes, "We are not going to create a new man or a new person in this country, and every civilization that has gone to a sensate, sensual culture has fallen." And I think that is a real possibility here, and to that extent I would like to see, here comes the rough Jerry Brown message, an austere, leaner commitment on the part of the people of this country. Yes, end of videotape. And Mr. Tim Russert, just a few days ago, comments, economic insecurity, fundamental values, sound famil-

iar? The same issues raised two decades ago, and we hear them today. We will be right back.

Now, I am coming to the end of what I described in this well on February 7, 1995, the 40th anniversary of my getting that ring and my wings of silver in the Air Force 41 years ago. Now on February 7, 1995, I declared for the Republican nomination for President in this well. That is almost 14 months ago. That is a special date for me, February 7, because a quarter of a century ago, 26 years now, on the 15th anniversary of my getting my pilot wings, I pointed to this Montagnard, proper name, ethnic name is Hmong, Hmong people of the mountain people, the French called them, Montagnard is the French name, there long before the Vietnamese, the Lao, or the Yeo or any ethnic Chinese were there. I pointed to this bracelet on the very first Robert K. Dornan Show. I was 37 years of age, 36 years of age. I had just won two Emmys for a local show. My reward was 90 minutes live on Saturday night in the second biggest market on the planet, Los Angeles, and environs. I pointed to this bracelet and said I will wear this, to the first guest on my first show. I stayed on the air for 6 years straight, combining both shows. I said I will wear this for your heroes, for your missing-in-action, heroes, one Marine, three Air Force. They never did get back. They are heroes, those 4 wives and friends of mine who had just come back from a 5-week trip around the world, locked up in Moscow in an old hotel with no heat, 4 of us, including myself, became sick out of the 5. Bill Clinton was in Moscow that very week, January 1970, at a banquet called the Mir Banquet, same name of the Russian space satellite that is up in the sky right now, Mir means peace, a peace banquet. The guest of honor was a Senator who lasted 12 years, Eugene McCarthy, otherwise a loyal Catholic, there he is in the Evil Empire in the heart of it, in Moscow, in the shadow of the Kremlin, literally across the street from the Kremlin in the National Hotel.

□ 1630

Twenty-three year old Bill Clinton ditching class at Oxford, where he never went to school, never earned his degree, just demonstrated against his country in a foreign land. He is in town. Ross Perot is in Copenhagen with a plane full of medicine for our POW's, which he had just flown in from Vientiane, Laos, home of the Montagnard people. He was told he could fly into Moscow if he would go into Copenhagen. Moscow keeps him on the ground, never does let him in.

I am under arrest with four wives, Pat Hardy, Pat Burns, Carol Hanson, now Carol Hanson Hickerson, and Connie Hessel, an African-American lady whose Colonel husband was head of academics at our gunnery school. Said he did not have to go. Did not have to go. Said it was his duty to go.

Never heard from again. Direct hit from a SAM on his F-4 Phantom.

I am with these wives, locked in a hotel. Clinton is in town being wined and dined as one of the sympathetic students who had organized the fall offensive named by the Communists for sympathetic demonstrations in Finland, Stockholm, Oslo, Norway, Paris, Clinton ran the ones in London, New York, here in the District of Columbia, Los Angeles, San Francisco, and Chicago. All around the world, a huge pro-Communist outpouring of love and affection for the Communist killers in Hanoi who meant to conquer, and eventually did, the freedom loving people in South Vietnam. What a week.

And I come home from that trip a month later, and God rewards me with the Robert K. Dornan Show, which led to me in the district that was the prime aerospace district in the country, represented then by the wealthiest man in the House, tough district, that show obviously gave me the name recognition to come to Congress 20 years ago.

So that date, February 7, the debut of the Robert K. Dornan Show, was special. So, of course, when it fell on a House day, in session, the 25th anniversary bracelet, 40th for my Air Force wings, I said "Today is the day I come to the well."

I do not live in the green room at "Meet the Press" like certain Senators. I did not have a nickel in the bank at that time. But I said, I think my words were, I am going to launch a mission that will be one of the great adventures of my life. And I am still a declared candidate. Buchanan, Jesuit educated Catholic, Keyes, the same, loyal Catholic, and DORNAN. And the winner, a hero of mine, BOB DOLE, always said he would win from day one. That is why I never raised much money. But I am still in.

It has been that great adventure I expected. I came in, announcing February 7, 1995, and then the formal announcement on Jefferson's birthday, April 13, at the Law Enforcement Memorial up here in Judiciary Square, to begin a trip up the east coast so that on Easter Sunday at the church where I was baptized, St. Patricks Cathedral, 7th biggest church on Earth, where my parents were married in 1929, I would renew my wedding vows, because it was my 40th anniversary, on my wife's birthday. I married her on her 21st birthday.

It was quite a day, ruined a little bit by Connie Chung and a weird show called "TV Nation," pretending they were the BBC, lying in my face, tracking us all day with cameras in our face, out to the Statue of Liberty, ruining a day with 9 grandchildren, now 10. And we went up to New Hampshire, went to the birthplace of the Republican Party, nine grandkids running all over, Sally and I in the glow of our 40th anniversary and Sally's birthday. It began the formal part of the campaign.

I announced at Jefferson's Memorial that I had a message for my country. It

was very similar to Jerry Brown's message that man does not live by bread alone, we had a moral crisis in the White House, and that we had a moral crisis in our country. That we were heading toward financial bankruptcy, and that is what we have been debating here all day long and passed by voice vote, both sides are so exhausted and the White House is a little unsure of their polling numbers and their focus groups, by voice vote a few minutes ago, we continue the Government for another 2 or 3 weeks with a continuing resolution.

We still have half the Government unfunded by last year's authorization bill, and we are already into markup. I am the chairman of two subcommittees here, only two of us chair two subcommittees, because the two intelligence subcommittees do not count. That is the dark secret world. But I am the military personnel chairman, and I have had my hearings all jammed together and rushed in 6 weeks, and now I have to write, "markup" we call it, for next year's defense authorization.

Clinton signed this year's defense authorization on February 10. He took out three of the things that I worked on here for the last 20 years. He took out national missile defense, SDI is what Reagan called it, strategic defense initiative. Clinton took it out.

We are told by careful polling that 80 percent of the people who visit this Chamber, 80 percent of intelligent, educated, Americans across this country, do not know that if some radical state, a communist state like Cuba or Korea, or a terrorist state like Iraq or Iran, launched one, uno, O-N-E, one nuclear missile, we could track it from the time the heat appeared on the launch pad through its accelerating trajectory, its mid-course, and its final trajectory, to wiping out a total American city, a medium-sized city like Raleigh, Sacramento or Anaheim, or an entire megalopolis, like New York, this whole Beltway and all the surrounding suburbs and areas in Maryland and Virginia, or all of the whole Los Angeles area, with fallout killing people, depending on the winds, in Santa Barbara or San Diego. One missile, We can track it from launch to impact. And the death of more Americans than every earthquake, fire, down to a single home fire, every hurricane, every flood, every natural disaster, for the entire last 15,000 years, since Asia man came down the Alberta Channel between the glaciers and populated this whole hemisphere from the Bering Straits to Patagonia in Argentina. More deaths in one instant of a flash of radioactivity than every natural disaster in the history of this hemisphere, all put together, times 3 or 4. And we cannot stop that missile.

And Clinton and his Secretary of Defense, Dr. Perry, say it is too soon to defend ourselves. It is not ready yet. Let the next President do it after my second term.

Then he takes out the biggest applause standing-ovation trigger for any

one of the 11 Republicans, when Wilson was hanging on and Forbes came in, they sort of replaced one another, we had 10 then, when we had 10 candidates, what I wrote for the Contract With America with JOHN DOOLITTLE of California, what was passed on this floor, what I helped put into the authorization bill, what Clinton vetoed, what we fought through two long arduous conference committees, and he finally demanded be taken out, was no U.S. troops under foreign command. When Governor Lamar Alexander said it, former governor, or Buchanan or Keyes, or Senate Leader BOB DOLE or me, it was an instant standing ovation from the crowd. No U.S. troops under U.N. or any foreign command.

Senator DOLE put it in on the other side, on the north end of this building. I put it in here. I used to sit there and somebody would whisper to me they are all taking credit for it, but you wrote it. I used to tell people, you know what Ronald Reagan had on his desk, a little sign that said if you do not care who gets credited, there is no end to what you can accomplish. But Clinton took that out, takes out defending our Nation.

By the way, we fought to get in theater missile defense. Now, what does that mean? That means that we are building a system to protect our men, now that we are putting women in combat, our women, in the field. And we also are going to protect our allies in the field as we send Patriot missiles to shoot down Scuds. You do not need to be told who is the good guys when the defense system is called Patriot and the evil system is called Scuds. But we gave that to Israel. We will protect, and Israel is working on a system we hope will work, called Arrow, a theater missile system, TMD, theater missile defense. He signed that. No, he is no fan of it, but he signed it. But he took out homeland defense.

So we defend allied foreign troops in the field, and we should, and our own troops, that is a moral obligation, but we do not defend their wives and their children or if it is a fighting mom, we do not defend Mr. Mom, who is taking care of the kids back home. Or their parents, or their grandparents, or everybody else's family. That is naked to attack. That comes out. And then we put people under foreign command. He says that is his prerogative and constitutionally it is not.

Then the third one he takes out, just as unseemly as the others, is Bosnia, Haiti, and Somalia, where 19 better men than he ever dreamed of being, died, two of them winning the Medal of Honor posthumously, dying to save Michael Durant, giving two lives for his one life. Another man was captured alive and beaten to death, their bodies torn apart, horrible story.

Clinton thinks he can do that without this House weighing in or the Senate. Clinton believes in his mind he can send us to Tibet tomorrow, and we have no role. He thinks he can send the

82d Airborne to bail out Tibet and recapture the big temple there and send the Dalai Lama home.

Now, it sounds absurd. He is not going to do it. He probably never thought about it. But constitutionally, he thinks he can send the 101st Airborne, a former paratrooper unit, back to Rwanda. He has not sent them there, but he thinks he can send them there again. He thinks he can go back to Somalia in an election year if he feels like it, to get rid of that 19-man death and the 104 others wounded in his adventure there when Bush said we are through, we are finished, we fed 3,050,000, we are out of there. Operation Hope is closed down. And Clinton said let us help the U.N., let us avenge the 29 Pakistanis who were disemboweled. Let us go back and arrest Aideded.

Two weeks after our heroes were killed. They would not dare ask Army men to defend him. Aideded was ordered to be defended by U.S. Marines, but put on an armed C-12 Beachcraft and sent down to a seminar in Addis Ababa, the man whose people just murdered and cut the bodies apart of 19 of our heroes, the helicopter crew with the five dragged through television, desecrated before our eyes. The worst, mercifully not shown on American or some European channels, showed the full horror of it.

What is it that he thinks he can do this, because of one line in the Constitution? One line in this small Constitution of ours that says no, that the President's job is the commander-in-chief, period. That means when we declare war, when we decide what foreign operation will be undertaken, a smart war hero Senator actually said, Jefferson set the precedent. He sent a naval force and Marines over to the Barbary Coast. The Marines still sing about going to the shores of Tripoli. The truth is 180 degrees the opposite. Get educated, U.S. Senate.

Our Congress ordered our second President, John Adams, our third President, the aforementioned Thomas Jefferson, and the following father of our Constitution, 5-foot dynamite James Madison, we ordered them from this Chamber and the U.S. Senate 10 times with public law, go get the Barbary pirates. Jefferson is recorded, you can find it in his own handwriting in the archives or our Library of Congress, where he says as President, No. 3, as President, I cannot order our military to do anything but defend these 13 colonies if attacked, unless the Congress orders me to do something else. And now I came across a story refreshing my memory that the dean of Washington reporters, I believe it was Sarah McClendon, said to President Lyndon Baines Johnson, you do not have the constitutional right to have 400 young men die every week in Vietnam. The Tonkin Gulf thing was a resolution. It is 6 years old. You cannot continue this. That was 1964, he was out by 1968. She said it is 3 years old.

□ 1645

You cannot continue this. He says, I have got the constitutional power. And that is what Clinton thinks. So he takes No. 3 out of the bill that he says that we infringed upon his constitutional power to demand that the U.S. Congress, under its constitutional authority, article I, section 8, says, we shall raise armies, build navies, and maintain them. Do you know that I am the chairman of the military personnel committee, Mr. Speaker? I know you know this. And Senator DAN COATES of Indiana, replaced Dan Quayle, is the military personnel chairman over there. Do you know we have the authority to change the color of the military uniforms, override the Joint Chiefs? We decide how much they will be paid, what their housing will be like, how big the units will be, how many ships will sail, whether we are going to buy the F-22, whether we are going to make more F-15's, 14's, 16's, 18's, what we are going to do with the Harrier, the AV-8B, the vertical take-off aircraft we are rebuilding, 10 to 20 of them, for night radar capability, an amazing system that after three decades walks away with every air show. We decide what kind of basic allowance for quarters. I just raised it 5.2 percent, got the Senate to go along with it and it is law now.

I put into the last bill that people who have the AIDS virus, are infected with the AIDS virus, and will probably die, not before 10 years, we hope, that is what we have extended it to if they live a clean life, exercise, and eat nutritious food, there are 1,049 in the military. They are not deployable. The three surgeons general said they must be brought home from Bosnia or Haiti or other misadventures. They can never be assigned to Korea, to Japan, to Europe. They cannot be a marine guard in an Embassy in any of the 191 nations in the world, 185 in the United Nations, including us, 7 others, 192 nations, including us, our status of treaty says that not a single nation in the world, 191, including the 6 not in the United Nations, that is like Taiwan, Switzerland, Tonga, Nauru, no nation wants an HIV-infected American citizen in uniform in their countries. And they will never go in combat again.

If a person tests HIV positive in Bosnia, he is brought home. He is grounded from his helicopter or his aircraft; he will never fly again. All of the technical schools, the training, it is all flushed. It is gone. Then we put out of the military, or do not recruit someone out of high school new, and give him the job of somebody we have let go who did not get infected with the HIV virus. It is an unbelievable story.

I passed it in the House, in subcommittee, committee. They would not debate it on the floor. Nobody would try to challenge me. They thought they would do it in the other Chamber. It got through two hard-fought conferences. And when Clinton vetoed the bill, he griped about na-

tional defense, stopping him from these adventures like Somalia, Bosnia, and Haiti, and United States troops under foreign command. He said that is his constitutional right. It is not. Even somebody as smart and as excellent a leader as BOB DOLE slipped and said, I know it is his constitutional right to send the troops to Bosnia. It is not. He said, but I do not think they should go. We should arm the Moslems. But even he did not understand fully the history of this. So when Clinton finally signed the defense authorization with 10 things in it that I had worked on, no more abortions in military hospitals. I won that battle. The staff did not even want me to do it. Do not, it is too contentious. We will lose on the floor. We won on the floor, 7 times. We won. The Senate tried to take it out. We beat them in conference twice. And Clinton with his own pen, I wish he would send me that pen, undid one of his five culture-of-death Executive orders. He had to undo it because of this Congressman from southern California. One down, four to go of the culture of death. They did not gripe about that one.

But guess what? Clinton says, you took out defending the homeland, the heartland of America or its big cities. I get to put people under U.N. foreign command. I get to send people to Bosnia, Somalia, Tibet, or any cockamamie place I darn well feel like, but I feel bad about this HIV thing. This is mean-spirited, bigoted. Goes on and on and then says, you people out there who want to sue this, sue the Government, sue the military, do it. My Justice Department, Janet Reno, will not counter it. You can sue with impunity. Meanwhile, homosexuals in the military, Janet Reno's Justice Department people are supporting the military policy, as screwed up and contradictory as it is, thanks to Les Aspin, Lord rest his soul and this confused President on this moral, cultural issue.

He is not going to, he is going to support the military orders there in this dumb mixed up policy on homosexuals in the military, but go ahead and sue on HIV.

So guess what, 3 hours ago, the conference of Senators and House Committee on Appropriations members still cannot decide whether they are going to try without a hearing, try without a hearing, without a bill, without an amendment on the Senate side, without any voting over there, they are going to try and strip out the Dornan language and keep HIV-AIDS-infected people on active duty who are jerked out of all their jobs that have anything to do with combat, even combat support, and who cannot go anywhere in the world, not even Hawaii or Alaska, let alone possessions like Puerto Rico, Guam, Samoa, the Virgin Islands, stay in the American States.

The figures here, most are in California and Virginia, two States with the highest land values and the highest tourist budgets. Unbelievable that he would make an issue out of that, Feb-

ruary 10. But that is the constitutional power of Congress under article I, section 8, to decide the total parameters of the size, pay and composition, and equipment of our military.

Clinton thinks they are his toys to be used for photo ops. I will make a charge on the floor right now, Mr. Speaker, that I have been studying for months. The entire intelligence process at the highest levels in Haiti has been politically debauched and compromised. The Aristide government, this man that the Vice President, Mr. Clinton tried to lionize, Aristide, this defrocked cleric, this man who publicly, I have heard it on tape, bragged about how the smell of burning flesh was exciting, telling people to put tires around people's necks and burn them alive with those tires, this defrocked cleric Aristide ordered through his Interior Ministry the death, the assassination of competitors in the recent Presidential election down there.

We found out about these assassination threats. And through a political destruction, and I cannot go any further than this, because of certain responsibilities I have here, because in the politicizing of our intelligence, people died. There are still reports bottled up on Somalia and Bosnia, 17 men dead, NATO Allies, 15, 2 of them our people, dozens injured, land mine accidents, bobby trap bombs in the buildings in Sarajevo, which I drove through a few weeks ago, thinking about my trip there in 1991 on the eve of the dissolution of the Communist cobbled together 8 provinces of the former Yugoslavia. I could hardly recognize this beautiful city of Sarajevo, the Olympic city of the same year that we had the Olympics in my Los Angeles, the Winter Olympics of 1984. Went by the beautiful stadium where Scott won the gold medal, I forget his last name. Now he is a narrator for skating events. That whole stadium collapsed, became a graveyard, the Olympic areas and fields mass graves, unbelievable what they did to themselves there. But 3 years before we used the air power, which I supported, to stop this sniping of women and children, killing mothers in front of their sons or vice versa.

I told George Bush, put a helicopter raid on those concentration camps. Look at this cover of Newsweek, Mr. President. What is this, Auschwitz all over again? What about the ringing words from the Holocaust, "never again." Put about 20 Blackhawks in there. Give them 20 Apaches or Cobra gunships to give them cover. Shoot up the gun towers. They will all run for the tall grass when they see 20 Apaches coming over the nape of the land and put all those prisoners whether they are Moslem-, Bosnian-, or mostly Serbian-held prisoners, put them in helicopters and take them to Strasbourg, France, dump them on the steps of the European Parliament. Not dump them, with great dignity and respect, after we fed them and clothed them, "present" them is the word I want for the European Parliament. And tell

them, you vowed never again, these are European human beings. What are you doing? Good idea, BOB, good plan. Cannot get involved. Not our deal.

I said, what are you going to do, wait for the Europeans until the death toll is so bad that we will have to get involved. Then Clinton fritters away 3 years. Now we are in there when there are so many blood debts built up over the last 4 years and they are still killing one another, still burning homes in the suburbs, that I drove through, of Sarajevo. Unbelievable that we are involved also on the ground to relieve what I said when I opened up, European young men and women to work in their industries, to build Airbus aircraft at Air France in Toulouse, France so they can sell them to our big airlines here.

Let me close, Mr. Speaker, on a few notes on the greatest health tragedy to ever hit the United States of America.

Mr. Speaker, nobody has made as many speeches on the floor of the House or on the floor of the Senate about AIDS as I have. Not Mr. Danne-meyer, who is retired, 4 years ago, not Mr. WAXMAN, when he was chairman of the Health Committee and Subcommittee of Commerce, no one has made as many speeches as I have.

My speeches have been rooted in mercy and compassion, and I have voted for every AIDS money appropriation in my last 10 years that I have been here because this is young people dying in their prime, where cancer and cardiac problems hit people generally at the later end of their life. Here are the new figures that I got out of the Atlanta Centers for Disease Control.

Mr. Speaker, you are an historian. You know that depending on your encyclopedia, 295,000 people died in combat in World War II or 312,000 is the high number. AIDS deaths, as of New Year's Eve, 315,928. We have 513,486 infected with AIDS and over 1 million positive with the human immunodeficiency virus, 1 million infected, half a million with AIDS and 62.3 percent dead. Let me add to that, children, almost 4,000, 3,921, for a cumulative total of 319,849.

You can add to that Dr. Koop, the former surgeon general, told me 30 to 40,000 who died in 1981, 1982, 1983, 1984, where the doctors, mercifully to protect the family, only put down the proximate cause of death, heart, lungs, pneumonia, cancer, and did not say it was caused by a breakdown in their immune system.

So the figure is closer to 350,000, 50,000 more than died in the jungles, the deserts, the Arctic, the sea, the air, all over this planet in World War II, Americans. Now we are heading toward the Civil War figure. We have already passed Civil War combat deaths, but pneumonia, disease, and Andersonville, the Auschwitz of its time, we lost 618,000, another half a decade and we will pass the Civil War death toll. Never has a disease ever cut down so many young Americans, and it has always been handled as a public relations

problem, never as a pandemic, that is a worldwide epidemic, a pandemic killing plague, because people's reputations are more important than saving those innocent victims, those 4,000 children.

My heart goes out to the 1,049 people in our military. I am going to find out who is an innocent victim. I will prevail over Mr. Clinton again. During this break I am going to become a walking encyclopedia with visits to Walter Reed, Bethesda, and maybe to San Antonio's Wilford Hall, Air Force. I will not be beaten on this by Senator KENNEDY who does not have a clue of what this is all about.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; and

H. Con. Res. 157. Concurrent resolution providing for an adjournment or recess of the two Houses.

The message also announced that pursuant to Public Law 103-432, upon the recommendation of the majority leader, Jo Anne B. Barnhart of Virginia, Martin H. Gerry of Kansas, Gerald H. Miller of Michigan; and upon the recommendation of the minority leader, Paul E. Barton of New Jersey are named to the Advisory Board on Welfare Indicators.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. GOODLING (at the request of Mr. ARMEY), for today until 1 p.m., on account of attending a funeral.

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. GOODLATTE) to revise and extend their remarks and include extraneous material:)

Mr. BUYER, for 5 minutes, today.

Mrs. CUBIN, for 5 minutes, today.

Mr. NORWOOD, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

(The following Members (at the request of Mr. WISE) to revise and extend their remarks and include extraneous material:)

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. MOAKLEY, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. TRAFICANT, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. FOX of Pennsylvania, for 5 minutes, today.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3136. An act to provide for enactment of the Senior Citizen's Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit; and

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

ADJOURNMENT

Mr. DORNAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. (Mr. BARTLETT of Maryland). Pursuant to the provisions of House Concurrent Resolution 157 of the 104th Congress, the House stands adjourned until 12:30 p.m. on Monday, April 15, 1996, for morning hour debates.

Thereupon (at 5 p.m.), pursuant to House Concurrent Resolution 157, the House adjourned until Monday, April 15, 1996, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2316. A letter from the Director, Test, Systems Engineering and Evaluations, Department of Defense, transmitting a letter notifying Congress of the intent to obligate funds for fiscal year 1996 Foreign Comparative Testing [FCT] Program, pursuant to 10 U.S.C. 2350a(g); to the Committee on National Security.

2317. A letter from the Assistant Secretary for Legislative Affairs and Public Liaison, Department of the Treasury, transmitting a copy of the 11th monthly report as required by the Mexican Debt Disclosure Act, pursuant to Public Law 104-6, section 404(a) (109 Stat. 90); to the Committee on Banking and Financial Services.

2318. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Turkey (Transmittal No. 16-96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

2319. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-238, "Retirement Reform Temporary Amendment Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2320. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-233, "Insurance Demutualization Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2321. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-238, "Insurance Redomestication Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2322. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-237, "Safe Streets Anti-Prostitution Amendment Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2323. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-236, "Human Remains Decisions Amendment Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2324. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-232, "Anatomical Gift Amendment Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2325. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-231, "Learner's Permit Amendment Act 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2326. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-230, "Insurance Industry Material Transactions Disclosure Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2327. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-229, "Merit Personnel Early Out Retirement Revisions Amendment Act of 1996," pursuant to D.C. Code, Section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2328. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-228, "Insurance Confidentiality of Information Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2329. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-227, "Henry J. Daly Building Designation Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2330. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-235, "Insurance State of Entry Act of Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2331. A letter from the Secretary of Veterans Affairs transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2332. A letter from the Chairman, Federal Election Commission, transmitting proposed FEC form 5, the form to be used by persons

other than political committees to report independent expenditures, pursuant to 2 U.S.C. 438(d); to the Committee on House Oversight.

2333. A letter from the Administrator, Federal Aviation Administration, transmitting a copy of the updated aviation system capital investment plan [CIP], pursuant to 49 U.S.C. app. 2203(b)(1); to the Committee on Transportation and Infrastructure.

2334. A letter from the Chairman, Federal Election Commission, transmitting the Commission's fiscal year 1997 budget request justification and its fiscal year 1996 supplemental appropriation request, pursuant to 2 U.S.C. 437d(d)(1); jointly, to the Committees on Appropriations and House Oversight.

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. KASICH: Committee on the Budget. H.R. 842. A bill to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund; adversely (Rept. 104-499, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. MCINNIS: Committee on Rules. House Resolution 395. Resolution providing for consideration of the joint resolution (H.J. Res. 159) proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes (Rept. 104-513). Referred to the House Calendar.

Mr. QUILLEN: Committee on Rules. House Resolution 396. Resolution providing for consideration of the bill (H.R. 842) to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund (Rept. 104-514). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2747. A bill to direct the Administrator of the Environmental Protection Agency to make grants to States for the purpose of financing the construction, rehabilitation, and improvement of water supply systems, and for other purposes; with an amendment (Rept. 104-515). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON BILLS INITIALLY REFERRED UNDER TIME LIMITATIONS

Under clause 5 of rule X, the following actions were taken by the Speaker:

H.R. 995. The Committee on Commerce discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

H.R. 3070. The Committees on Ways and Means, the Judiciary, and Economic and Educational Opportunities discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

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. CALVERT:

H.R. 3198. A bill to reauthorize and amend the National Geologic Mapping Act of 1992,

and for other purposes; to the Committee on Resources.

By Mr. BURR (for himself, Mr. GREENWOOD, Mr. RICHARDSON, Mr. BILIRAKIS, Mr. TOWNS, Mr. BARTON of Texas, Mr. HALL of Texas, Mr. KLUG, Ms. ESHOO, Mr. UPTON, Mr. GORDON, Mr. BILBRAY, Mr. BREWSTER, Mr. COBURN, Mr. DOOLEY, Mr. GANSKE, Mr. MCHALE, Mr. OXLEY, Mr. PAYNE of Virginia, Mr. FIELDS of Texas, Mr. ROSE, Mr. PAXON, Mr. HOLDEN, Mr. TAUZIN, Mr. SCHAEFER, Mr. FOX, Mr. FUNDERBURK, Mr. CAMPBELL, Mr. MCINTOSH, Mr. COX, Mr. DREIER, Mr. HEINEMAN, Mr. WELDON of Florida, Mr. SHAYS, Mr. HASTERT, Mr. NORWOOD, Mr. BURTON of Indiana, Mr. FRAZER, Mr. STEARNS, Mr. FRISA, Mr. RAMSTAD, Mr. MARTINI, and Ms. DUNN of Washington):

H.R. 3199. A bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to facilitate the development and approval of new drugs and biological products, and for other purposes; to the Committee on Commerce.

By Mr. KLUG (for himself, Mr. GREENWOOD, Mr. TOWNS, Mr. BILIRAKIS, Mr. RICHARDSON, Mr. BURR, Mr. HALL of Texas, Mr. BARTON of Texas, Mr. GORDON, Mr. UPTON, Mr. BREWSTER, Mr. BILBRAY, Mr. PAYNE of Virginia, Mr. COBURN, Mr. DOOLEY, Mr. GANSKE, Mr. MCHALE, Mr. OXLEY, Mr. HOLDEN, Mr. FIELDS of Texas, Mr. PAXON, Mr. WHITFIELD, Mr. SCHAEFER, Mr. TAUZIN, Mr. FOX, Mr. CAMPBELL, Mr. MCINTOSH, Mr. COX, Mr. DREIER, Mr. HEINEMAN, Mr. FUNDERBURK, Mr. WELDON of Florida, Mr. SHAYS, Mr. HASTERT, Mr. NORWOOD, Mr. FRAZER, Mr. STEARNS, Mr. FRISA, Mr. RAMSTAD, Mr. MARTINI, and Ms. DUNN of Washington):

H.R. 3200. A bill to amend the Federal Food, Drug, and Cosmetic Act to increase access to nutritional information about foods, to increase the availability of safe food products, and for other purposes; to the Committee on Commerce.

By Mr. BARTON of Texas (for himself, Mr. GREENWOOD, Mr. RICHARDSON, Mr. BILIRAKIS, Mr. HALL of Texas, Mr. GORDON, Mr. BURR, Ms. ESHOO, Mr. COBURN, Mr. BREWSTER, Mr. KLUG, Mr. DOOLEY, Mr. GANSKE, Mr. MCHALE, Mr. BILBRAY, Mr. PAYNE of Virginia, Mr. OXLEY, Mr. HOLDEN, Mr. FIELDS of Texas, Mr. PAXON, Mr. SCHAEFER, Mr. TAUZIN, Mr. FOX, Mr. UPTON, Mr. CAMPBELL, Mr. MCINTOSH, Mr. COX, Mr. DREIER, Mr. HEINEMAN, Mr. FUNDERBURK, Mr. WELDON of Florida, Mr. HOSTETTLER, Mr. SHAYS, Mr. HASTERT, Mr. NORWOOD, Mr. BURTON of Indiana, Mr. FRAZER, Mr. STEARNS, Mr. FRISA, Mr. RAMSTAD, Mr. MARTINI, and Ms. DUNN of Washington):

H.R. 3201. A bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development, clearance, and use of devices to maintain and improve the public health and quality of life of the citizens of the United States; to the Committee on Commerce.

By Mr. DEFAZIO:

H.R. 3202. A bill to decrease military spending to a sensible level by reducing force structure, major weapons system procurement, and other programs; to the Committee on National Security.

By Mr. BILBRAY (for himself and Ms. DUNN of Washington):

H.R. 3203. A bill to require the administrative agency responsible for adjudicating

claims under the workers' compensation provisions of title 5, United States Code, to follow certain procedures in seeking medical opinions; to the Committee on Economic and Educational Opportunities.

H.R. 3204. A bill to require the administrative agency responsible for adjudicating claims under the workers' compensation provisions of title 5, United States Code, to select board certified physicians to provide second opinions; to the Committee on Economic and Educational Opportunities.

H.R. 3205. A bill to change the appeals process in the workers' compensation provisions of title 5, United States Code; to the Committee on Economic and Educational Opportunities.

By Mr. CHRISTENSEN (for himself, Mr. HAYES, Mr. NEUMANN, Mrs. MYRICK, and Mr. FOX):

H.R. 3206. A bill to amend title 18, United States Code, with respect to Federal prisoners, and for other purposes; to the Committee on the Judiciary.

By Mr. BAKER of California (for himself, Mr. BEREUTER, Mr. BROWN of California, Mr. CALVERT, Mrs. CLAYTON, Mr. COX, Mr. DICKS, Mr. DELLUMS, Mr. EHLERS, Ms. ESHOO, Mr. FARR, Mr. FUNDERBURK, Mr. GENE GREEN of Texas, Mr. HASTERT, Mr. JACOBS, Mr. PARKER, Mr. ROGERS, Mr. ROYCE, Mr. ROTH, Mr. TAYLOR of North Carolina, Mr. TOWNS, Mr. WELDON of Florida, Mr. WILSON, and Mr. WISE):

H.R. 3207. A bill to amend the Communications Act of 1934 to facilitate utilization of volunteer resources on behalf of the amateur radio service; to the Committee on Commerce.

By Mr. BASS:

H.R. 3208. A bill to amend the Federal Election Campaign Act of 1971 to strengthen certain provisions relating to independent expenditures, and for other purposes; to the Committee on House Oversight.

By Mr. BEREUTER:

H.R. 3209. A bill to amend the Internal Revenue Code of 1986 to increase the maximum amount deferrable under a 457 plan for any year to the amount deferrable for such year under a 401(k) plan, and to require that amounts in 457 plans be held in trust; to the Committee on Ways and Means.

By Mr. CAMPBELL:

H.R. 3210. A bill to amend the Bank Holding Company Act of 1956 to clarify that the Board of Governors of the Federal Reserve System has full discretion with regard to the type and amount of information required to be included in an application to become a bank holding company or to acquire a bank, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. FAWELL:

H.R. 3211. A bill to amend the National Labor Relations Act to protect employer rights; to the Committee on Economic and Educational Opportunities.

H.R. 3212. A bill to amend the Fair Labor Standards Act of 1938 to provide a limited overtime exemption for employees performing emergency medical services; to the Committee on Economic and Educational Opportunities.

By Mr. FORBES:

H.R. 3213. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 relating to the dumping of dredged material in Long Island Sound, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. FRANKS of Connecticut:

H.R. 3214. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish a brownfield cleanup loan program; to the

Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, 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. HAYWORTH:

H.R. 3215. A bill to amend title 18, United States Code, to repeal the provision relating to Federal employees contracting or trading with Indians; to the Committee on the Judiciary.

By Mrs. JOHNSON of Connecticut (for herself, Mr. SHAYS, Mr. FRANKS of New Jersey, and Mr. HORN):

H.R. 3216. A bill to amend the Occupational Safety and Health Act of 1970 to require that inspections of construction sites carried out under that act shall be conducted by inspectors who have been trained pursuant to standards established by the Secretary of Labor; to the Committee on Economic and Educational Opportunities.

By Mr. LATOURETTE (for himself, Mr. SAXTON, Ms. LOFGREN, Ms. RIVERS, Ms. KAPTUR, Mr. GILCHREST, Mr. STUPAK, Mr. QUINN, Mr. RAMSTAD, Mr. MILLER of California, Mr. OBERSTAR, Mr. MEEHAN, Mr. FRANKS of New Jersey, Mr. PETRI, Mr. HOKE, Mr. EHLERS, Mr. DINGELL, Mr. ENGLISH of Pennsylvania, and Mrs. MORELLA):

H.R. 3217. A bill to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, 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. LATOURETTE:

H.R. 3218. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate that a portion of their income tax refunds be retained by the United States for use for certain public purposes; to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, Commerce, and Economic and Educational Opportunities, 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. LAZIO of New York (for himself, Mr. BEREUTER, Mr. HAYWORTH, and Mr. JOHNSON of South Dakota):

H.R. 3219. A bill to provide Federal assistance for Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. SALMON (for himself and Mr. STEARNS):

H.R. 3220. A bill to provide for the opportunity for the families of murder victims to attend the execution of the murderers; to the Committee on the Judiciary.

By Mr. SANDERS:

H.R. 3221. A bill to amend the Electronic Fund Transfer Act to prohibit the imposition of certain additional fees on consumers in connection with any electronic fund transfer which is initiated by the consumer from an electronic terminal operated by a person other than the financial institution holding the consumer's account and which utilizes a national or regional communication network; to the Committee on Banking and Financial Services.

By Mr. SANDERS (for himself, Mr. STARK, Ms. MCKINNEY, Mr. DELLUMS, Mr. HILLIARD, and Mr. FRAZER):

H.R. 3222. A bill to prohibit gag rule clauses, improper incentive programs, and

indemnification clauses in health care insurance contracts and health care employment contracts, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Economic and Educational Opportunities, 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. SCHIFF (for himself, Mr. MCCOLLUM, Mr. COBLE, Mr. SKEEN, Mr. FROST, Mrs. MYRICK, and Mr. LATOURETTE):

H.R. 3223. A bill to amend title 18, United States Code, to provide mandatory life imprisonment for persons convicted of a second serious violent felony or serious drug offense; to the Committee on the Judiciary.

By Mr. SCHIFF (for himself and Mr. SHAYS):

H.R. 3224. A bill to improve Federal efforts to combat fraud and abuse against health care programs, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Government Reform and Oversight, Ways and Means, and Commerce, 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. SHAYS (for himself, Mr. SCHIFF, and Mr. BARRETT of Wisconsin):

H.R. 3225. A bill to amend title XVIII of the Social Security Act to expedite payment adjustments for durable medical equipment under part B of the Medicare Program based upon inherent reasonableness; to the Committee on Commerce, and in addition to the Committee on 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. SOLOMON (for himself and Mr. MILLER of California):

H.R. 3226. A bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Economic and Educational Opportunities, 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. STUPAK:

H.R. 3227. A bill to amend title 23, United States Code, relating to the statewide planning process to provide for greater participation by elected officials having jurisdiction over transportation in nonmetropolitan areas, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. VELÁZQUEZ (for herself, Mr. GUTIERREZ, Mrs. KENNELLY, Mr. KENNEDY of Massachusetts, Mr. SERRANO, Mr. MENENDEZ, Ms. ROYBAL-ALLARD, and Ms. ROS-LEHTINEN):

H.R. 3228. A bill to require the Secretary of the Treasury to mint coins in commemoration of all the brave and gallant Puerto Ricans in the 65th Infantry Regiment of the United States Army who fought in the Korean conflict; to the Committee on Banking and Financial Services.

By Mr. VENTO:

H.R. 3229. A bill to require that wages paid under a Federal contract are greater than the local poverty line, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. LIVINGSTON:

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal

year 1996, and for other purposes; to the Committee on Appropriations.

By Mr. LANTOS:

H.J. Res. 171. Joint resolution proposing an amendment to the Constitution to permit the Congress to limit contributions and expenditures in elections for Federal office; to the Committee on the Judiciary.

By Mr. ARMEY:

H. Con. Res. 157. Concurrent resolution providing for an adjournment or recess of the two Houses; considered and agreed to.

By Mr. BROWDER:

H. Con. Res. 158. Concurrent resolution instructing the Architect of the Capitol to recommend measures to recognize, through the National Statuary Hall, the ongoing contributions of all American citizens, including women; to the Committee on House Oversight.

By Ms. VELAZQUEZ (for herself, Mr. GUTIERREZ, Mrs. KENNELLY, Mr. KENNEDY of Massachusetts, Mr. SERRANO, Mr. MENENDEZ, Ms. ROYBAL-ALLARD, Ms. ROS-LEHTINEN, and Mr. UNDERWOOD):

H. Con. Res. 159. Concurrent resolution expressing the sense of the Congress that the heroism of the brave and gallant Puerto Ricans in the 65th Infantry Regiment of the United States Army who fought in the Korean conflict should be commemorated; to the Committee on Veterans' Affairs, and in addition to the Committee on National Security, 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. ARMEY:

H. Res. 397. Resolution electing Representative JAMES A. HAYES of Louisiana to the Committee on Ways and Means; considered and agreed to.

By Mr. ENGEL (for himself, Mr. GILMAN, Mr. NADLER, Mr. SAXTON, Mr. DEUTSCH, and Mr. McNULTY):

H. Res. 398. Resolution condemning the construction of a shopping center within the internationally protected zone around the Auschwitz death camp in Poland; to the Committee on International Relations.

By Mr. PAYNE of New Jersey (for himself, Mr. CHABOT, Mrs. CLAYTON, Mr. CONYERS, Ms. MCKINNEY, Mr. BEREUTER, Mr. OWENS, and Mr. WYNN):

H. Res. 399. Resolution expressing the sense of the House of Representatives with respect to the promotion of democracy and civil society in Zaire; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

- H.R. 28: Mr. SCHAEFER.
- H.R. 103: Mr. KLINK, Mr. DIAZ-BALART, and Mr. BRYANT of Texas.
- H.R. 294: Mr. FATTAH and Ms. PELOSI.
- H.R. 324: Mr. LUTHER and Mrs. CLAYTON.
- H.R. 452: Mr. DIAZ-BALART and Mr. STUPAK.
- H.R. 468: Mr. REGULA.
- H.R. 500: Mr. DICKEY.
- H.R. 528: Mr. TIAHRT.
- H.R. 820: Mr. GOODLING and Mr. TRAFICANT.
- H.R. 1023: Mr. DORNAN and Mr. LATHAM.
- H.R. 1119: Mr. SANDERS.
- H.R. 1171: Mr. MCCOLLUM and Mr. COX.
- H.R. 1297: Mr. QUILLEN.
- H.R. 1386: Mr. SCHAEFER, Mr. BONILLA, and Mr. BRYANT of Tennessee.

- H.R. 1406: Mr. SPENCE.
- H.R. 1492: Mr. WELDON of Florida.
- H.R. 1514: Mr. BATEMAN, Mr. COSTELLO, Mr. SMITH of Texas, Mr. MCDADE, Mr. PORTER, Mr. BARRETT of Nebraska, Mr. LEWIS of Georgia, Mr. TORRES, and Mr. ALLARD.
- H.R. 1552: Mr. FRELINGHUYSEN, Mr. BRYANT of Texas, Mrs. LOWEY, Ms. MCKINNEY, Ms. NORTON, Mr. CUNNINGHAM, and Ms. WOOLSEY.
- H.R. 1661: Mr. HOSTETTLER, Mr. GORDON, Mr. ZELIFF, and Mr. WELDON of Pennsylvania.
- H.R. 1662: Mrs. MEEK of Florida and Mr. CRAMER.
- H.R. 1684: Mr. PARKER, Mr. GEPHARDT, and Mr. ENGLISH of Pennsylvania.
- H.R. 1711: Mr. DOOLITTLE.
- H.R. 1802: Mr. BEILENSON.
- H.R. 1953: Mr. BATEMAN.
- H.R. 1972: Mr. YOUNG of Florida and Mr. COSTELLO.
- H.R. 2011: Mr. BROWN of Ohio.
- H.R. 2019: Mr. HUTCHINSON.
- H.R. 2026: Ms. PELOSI, Mr. BEILENSON, Mr. GINGRICH, Mr. MASCARA, and Mr. FALEOMAVAEGA.
- H.R. 2086: Mr. BEREUTER.
- H.R. 2087: Mrs. CUBIN.
- H.R. 2143: Ms. ESHOO and Mr. BERMAN.
- H.R. 2178: Mr. GEJDENSON.
- H.R. 2192: Mr. COSTELLO.
- H.R. 2193: Mr. PETE GEREN of Texas, Ms. MCKINNEY, Mr. FOX, Mr. FALEOMAVAEGA, Mr. BONILLA, and Mr. STENHOLM.
- H.R. 2247: Mrs. CLAYTON, Mr. FRANK of Massachusetts, Mr. FRAZER, Ms. ROYBAL-ALLARD, and Mr. WILLIAMS.
- H.R. 2250: Mr. RIGGS.
- H.R. 2391: Mr. SOLOMON and Mr. SHADEGG.
- H.R. 2400: Mr. SPENCE.
- H.R. 2421: Mr. TORKILDSEN, Mr. FLAKE, Ms. MOLINARI, Mr. QUINN, Mr. LAFALCE, and Mr. RANGEL.
- H.R. 2470: Mr. COBURN.
- H.R. 2489: Mr. BEILENSON, Ms. BROWN of Florida, Mr. BURTON of Indiana, Mr. COBURN, Mr. FOX, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JOHNSON of Connecticut, Mrs. LOWEY, Mrs. MALONEY, Ms. MOLINARI, Mr. OBERSTAR, Mr. PETRI, Mr. SMITH of New Jersey, Mr. TAYLOR of North Carolina, Mr. THORNBERRY, Ms. WATERS, and Mr. WELLER.
- H.R. 2548: Mr. PAYNE of New Jersey and Mr. BILBRAY.
- H.R. 2579: Mr. THOMAS, Mr. BERMAN, Mr. FALEOMAVAEGA, Mr. WATT of North Carolina, Ms. WOOLSEY, Mr. WAXMAN, Mr. NADLER, Mr. OBERSTAR, Mr. DAVIS, Ms. LOFGREN, and Mr. LUTHER.
- H.R. 2699: Mr. DICKS, Ms. JACKSON-LEE, Mr. FALEOMAVAEGA, Ms. NORTON, Mr. DOYLE, Mr. JEFFERSON, Mrs. CLAYTON, Mr. PAYNE of New Jersey, Mrs. MEEK of Florida, Mr. TOWNS, Mr. CLAY, Mr. THOMPSON, Mr. BISHOP, and Mr. CHABOT.
- H.R. 2727: Mr. HOSTETTLER.
- H.R. 2741: Mr. BURR, Mr. PACKARD, and Mr. MOORHEAD.
- H.R. 2757: Mr. PAYNE of Virginia, Mr. THORNBERRY, Mr. METCALF, and Mrs. CLAYTON.
- H.R. 2823: Mr. TRAFICANT, Mr. RIGGS, Mr. ACKERMAN, and Mr. ALLARD.
- H.R. 2875: Mr. WELLER and Mr. RANGEL.
- H.R. 2900: Mr. FIELDS of Texas, Mr. EVERETT, Mr. UPTON, Mrs. SMITH of Washington, Mr. BURTON of Indiana, Mr. RAHALL, and Mr. SCHIFF.
- H.R. 2919: Mr. LIPINSKI.
- H.R. 2922: Mrs. THURMAN.
- H.R. 2959: Mr. QUINN.
- H.R. 2986: Mr. VENTO, Mr. NEY, and Mr. HINCHEY.
- H.R. 3004: Mr. THORNTON and Mrs. CLAYTON.

- H.R. 3022: Mr. FRAZER, Ms. NORTON, Mr. HILLIARD, Mr. PAYNE of New Jersey, Mr. YATES, Ms. MCKINNEY, and Mr. PALLONE.
- H.R. 3030: Ms. WOOLSEY, Ms. MCKINNEY, Mr. HILLIARD, Mr. WAXMAN, Mr. TORRES, Mr. MATSUI, Mr. MORAN, Mr. DELLUMS, and Ms. LOFGREN.
- H.R. 3050: Mrs. CLAYTON.
- H.R. 3052: Mrs. LOWEY, Ms. NORTON, Mr. HILLIARD, Mr. FALEOMAVAEGA, Mr. DELLUMS, Mr. FROST, Mr. QUINN, Mr. FOX, Ms. MCKINNEY, Mr. FRAZER, Mr. BORSKI, Mr. FAZIO of California, Ms. LOFGREN, Mr. FARR, Mr. THOMPSON, Mr. WILSON, Mr. TORRES, Mr. GEJDENSON, and Mr. EVANS.
- H.R. 3067: Mr. DEFAZIO.
- H.R. 3079: Mr. KLECZKA.
- H.R. 3081: Mrs. CLAYTON, Mr. FARR, Mr. PAYNE of New Jersey, and Mr. FROST.
- H.R. 3089: Mrs. MORELLA, Mr. PALLONE, Mr. MATSUI, Mr. MILLER of California, and Mr. KLINK.

- H.R. 3104: Mr. ENSIGN and Mr. GENE GREEN of Texas.
- H.R. 3119: Mr. EDWARDS.
- H.R. 3130: Mr. EVANS and Mrs. CLAYTON.
- H.R. 3149: Mr. RAMSTAD and Mr. HERGER.
- H.R. 3152: Ms. WOOLSEY, Mr. RIGGS, Mr. FAZIO of California, and Mr. ROHRBACHER.
- H.R. 3170: Mr. MARTINI and Ms. MOLINARI.
- H.R. 3173: Mr. KILDEE, Ms. ROYBAL-ALLARD, and Mr. KLINK.
- H.R. 3177: Mr. KLUG, Mr. ROTH, Mr. PETRI, Mr. OBERSTAR, Mr. MILLER of Florida, Mr. BARRETT of Wisconsin, and Mr. FRANK of Massachusetts.
- H.R. 3195: Mr. GRAHAM and Mr. SPENCE.
- H.J. Res. 70: Mr. FRAZER.
- H. Con. Res. 47: Mr. DEFAZIO, Mr. MORAN, Mr. TOWNS, Mr. WELLER, and Mr. STOCKMAN.
- H. Con. Res. 95: Mr. WATTS of Oklahoma, Ms. PELOSI, and Ms. NORTON.
- H. Res. 30: Mr. PETERSON of Florida, Mr. BRYANT of Texas, Ms. WATERS, Mr. SCHIFF, Mr. SCHAEFER, Mr. KILDEE, and Mr. BECERRA.
- H. Res. 359: Mr. BARRETT of Wisconsin, Mr. RANGEL, and Mr. DELLUMS.
- H. Res. 374: Ms. DELAURO, Mr. GREENWOOD, Mrs. ROUKEMA, and Mr. MCCOLLUM.
- H. Res. 378: Mr. MANTON and Mr. LIPINSKI.
- H. Res. 385: Mr. BEREUTER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

- H.R. 1834: Mrs. JOHNSON of Connecticut.
- H.R. 1972: Mrs. MINK of Hawaii.
- H.R. 2754: Mr. QUILLEN.

DISCHARGE PETITIONS— ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

[Omitted from the Record of March 22, 1996]

Petition 12 by Mrs. SMITH of Washington on House Resolution 373: Glen Browder.

[Submitted March 29, 1996]

Petition 12 by Mrs. SMITH of Washington on House Resolution 373: Patricia Schroeder, David Minge, Thomas M. Barrett, William P. Luther, Glenn Poshard, Jack Reed, Bob Inglis, Edward J. Markey, and James A. Leach.