premiums, and it guarantees only one thing: that, every month, the insurance company is going to take your money and that you'll have to fight like hell to get it back. Having insurance today doesn't guarantee that you're going to get the services that you need. That's how Chairman OLVER was able to show us all the data.

We are spending a lot of money for health care. We are not getting the value. So I think it's time to begin to ask the question if we shouldn't begin to change the process of how we're going to reward the delivery of health care, to change the process and reward value, not just per head or per prescription. We have to begin to reward value and prevention. Look, you are exactly what you eat.

As my father says, ''Steve, boy, pollution begins at your lips. If you don't put it in, it won't stay on you.''

''Well, okay. I'm doing my best to lose weight, Dad,'' but the reality is we can do this by working together.

It will take Democrats, Republicans, Libertarians, and Independents. The American people don't want any more argument about this. They want us to come up with a solution that works for their budgets, that works in their homes and that works within a framework that guarantees that, if you're a citizen, you're in. If it's in your body, it should be covered.

I am more confident tonight than ever before that, this year, we're going to achieve that goal of guaranteeing access to affordable health care for everyone who is legally here.

Mr. MURPHY of Connecticut. Thank you, Mr. KAGEN.

We have sort of run the gamut this evening of the problems that underlie the existing system—the lack of transparency in insurance markets, the discriminatory practices of insurance companies, the lack of cohesion in prices when you walk into a pharmacy or into a hospital, the amount of money that it puts on top of businesses that are already struggling to compete in this world.

When you talk about health care, it may be the most complex topic that we ever talk about here. It seems insurmountable sometimes. It seems like there's too much to try to take on at one moment, but there are simple solutions here, as you said: Pay for performance instead of pay for volume. Pay for prevention rather than crisis care. Give people options that they can see and understand.

I think that there are some solutions here that can cross party lines, as you said, Mr. KAGEN. I think that we can achieve a real victory in health care for America, in health care for America this year, this session, that guarantees that for citizens of the most affluent and the most powerful country in the world. Just because you can't afford to see a doctor doesn't mean you're not going to get sick. I hope we get the chance to do this more often and to bring our colleagues to the realization that the time for reform is now.

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

LOCAL LAW ENFORCEMENT HATE CRIMES PREVENTION ACT OF 2009

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes as the designee of the minority leader.

Mr. KING of Iowa. Thank you, Mr. Speaker. I very much appreciate the honor of addressing you here tonight on the floor of the House of Representatives.

There is an issue that comes to mind for me immediately. It is the reason that I have asked for some time tonight here in this Special Order in this hour of privilege that we have. It is a disturbing factor that I have experienced, along with a number of others, through a markup in the Judiciary Committee last week, and that is this dramatic departure from the rule of law, the dramatic departure from the Constitution, the dramatic departure from the understanding that criminal law in America would be focused on overt acts, not on the thoughts that we might divine would be within the heads of the perpetrators.

I'm speaking specifically, Mr. Speaker, about the hate crimes legislation that has been pushed through the Judiciary Committee and that will arrive here on the floor of the House of Representatives tomorrow.

By the rule, the rules process that has taken place, there were a whole series of amendments that were offered in the Judiciary Committee. Those who watched the committee will know that the Judiciary Committee in the United States House of Representatives is the most polarized committee on the Hill. It's the committee that goes out and recruits, I'll say, the most hardcore, left-wing people in this Congress to advocate for the most hardcore, left-wing—and I'll say—sometimes unconstitutional, often illogical proposals that might come before this Congress to be rammed through the Judiciary Committee but not without a legitimate markup. I will concede that point to the chairman, Mr. CONYERS.

Many of us offered amendments, but there was a determination to vote down, to shoot down and to defeat every constructive amendment that was offered before the Judiciary Committee on this so-called ''hate crimes legislation,'' Mr. Speaker.

On Thursday, after a full day Wednesday and a most-of-the-day Thursday markup and after that legislation on the so-called ''hate crimes'' passed the House Judiciary Committee, it went to the Rules Committee, which met today, Mr. Speaker. The Rules Committee's job is to also enhance something that is the responsibility of every chairman on this Hill, that is the responsibility of you, Mr. Speaker, and that is the responsibility of all of those who have gavels in their hands. I've spent some time with a gavel in my hand, Mr. Speaker. The job of the chairman is to bring out the will of the group. It's not to impose the Chair's will on the group. To bring out the will of the group is the constitutional act of justice that should come from the hand that holds the gavel.

What happened instead—and perhaps, just perhaps, the hate crimes legislation flowed out of the Judiciary Committee reflecting the will of the Judiciary Committee, but when it is filtered through the Rules Committee—the Rules Committee that sits in judgment upon whether there will be amendments that are allowed to be offered here on the floor of the House of Representatives or whether there will not and which of those amendments might be offered—the Rules Committee has a profound responsibility to weigh the proposals and to make a determination that this House can work in an expeditious fashion but can still reflect the will of the United States House of Representatives.

That will has been frustrated, Mr. Speaker, because the Rules Committee, I'm told, has ruled there will be no amendments on this hate crimes legislation, that it will come to the floor under a closed rule with no amendments allowed, only the amendments that were offered in the Judiciary Committee and by no other Member of Congress. All of those who do not sit on the Judiciary Committee will have an opportunity to try to perfect this legislation that they call the hate crimes legislation but that I call, Mr. Speaker, the thought crimes legislation.

That's at the core of our discussion here this evening, and I'll submit that the will of this group, that the will of the United States House of Representatives, is directly frustrated by the actions that, I believe, are directed from the Speaker's office, by the actions of the Chair of the Rules Committee and by the actions of the majority members on the Rules Committee who have decided to shut down the amendments process and ram through a piece of legislation tomorrow with only 30 minutes allowed for all of the Members of the United States House of Representatives to voice their objections here on the floor of the House of Representatives.

There will be no amendments allowed, just a voice where there will be more than 30 people lined up who will have less than a minute to add their words to this, and where there will be no chance to sway the opinion of this body, the opinion of this body that is locked in on an idea that we're going to have hate crimes legislation in America that punishes the thoughts of people who may or may not be perpetrating crimes against folks because of their particular, special protected status that would be created under this hate crimes legislation.

I, Mr. Speaker, oppose, and I defy the logic of the people who would advocate for such legislation and the very idea that we could divine what goes on in

the heads of people when they commit crimes.

I will argue that the history of criminal law in Western civilization has always been about the overt act, not about the covert act; about the overt act, not about the thought, not about what goes on in the head of the perpetrator and certainly not what goes on in the head of the victim. We recognize and have for millennia that the value of the victim is intrinsic in that each human life has a unique value, a unique value that is priceless and sacred. Whether it's a baby who was just conceived a moment ago or whether it's someone in the last days or hours of his life, we all measure that life equally.

In fact, former Governor of Pennsylvania Robert Casey said human life cannot be measured. It is the measure, itself, against which all other things are weighed.

Yet this hate crimes legislation would weigh it differently. It would weigh the life or the health or the physical well-being of an individual who fit within this special protected status—the status that might be wrapped up in their sexual orientation, their gender identity or their gender, itself—of having a special status if it happens to fit the list of proclivities that they believe should be protected status.

Now, when you start valuing one person's well-being, one person's life differently than that of another, we have deviated dramatically from the essence of criminal law and have started ourselves down a path by which we're evaluating not as the proponents of the bill—and I will say there is the gentlelady from Madison, Wisconsin, whom I specifically asked:

Is this a crime committed, and is it evaluated by what's in the head of the perpetrator or by what's in the head of the victim? I think I might have misunderstood her, but they corrected me clearly, and they said: Well, it's what's in the head of the perpetrator.

All right. So, if we're going to presume that a crime could be committed and if we're going to enhance the penalty, maybe, 10 years or maybe as much as life in prison for kidnapping, for example, because we're going to judge what goes on in the mind of the perpetrator at the time he committed the crime and what provided him the incentive for committing that crime, then we're evaluating here by law what goes on in the head of the perpetrator.

But, Mr. Speaker, there's another component of this. This is what goes on in the head of the victim as well, because the special protected status rests upon not physical characteristics, not immutable characteristics—those characteristics that can be independently verified and that cannot be willfully changed. No, Mr. Speaker. These characteristics are those mutable characteristics, those that reflect not just the physicality of the victim but the attitude and what goes on in the head of the victim.

So, for the first time, if this legislation should become law, the Federal Government will be punishing and will be acting upon legislation that presumes to be able to know what's in the mind of the perpetrator and what's in the mind of the victim. It will match those two things together and will determine if a crime were committed and, if so, how to enhance the penalty. This is a bizarre thing, Mr. Speaker.

This takes me back to the book ''1984'' by George Orwell, written in 1949, where George Orwell wrote—and I will summarize this because I don't exactly have the quote in front of me:

We don't care about the overt act. We don't care about any overt act. What we care about is the thought, because, if you can control the thought, you can control the overt act.

So why would we care about the act, itself, when we could control the thought? By the way, we're not going to be satisfied if you just simply agree with us. You must do so willingly. We must bring your mind around to the point where you're eager to agree with us. When that point comes, there will be no more overt acts that we disagree with, and therefore, we will have controlled the mind, and by controlling the mind, we've controlled the actions, themselves.

□ 2045

This is a bald-faced effort to enforce public affirmation for behaviors that have been considered to be historically aberrant behaviors by the American Psychological Association, Mr. Speaker. There is a long list of them. The list that I have is 547 of them long. As near as I can determine, they're all specially protected activities or thought processes that are protected under this hate crimes legislation, Mr. Speaker.

We tried mightily to amend the bill and to try to bring some sense to this idea that whatever the proclivity, it was going to be protected by a Federal hate crimes law. We can't cross that line, Mr. Speaker. We've got to maintain criminal penalties for the overt act, not for the thought, because we can't know what goes on in the mind of the perpetrator, and we can't know what goes on in the mind of the victim.

Mr. Speaker, that opens this subject matter up, and I recognize that there are some very effective Members of the House of Representatives that would like to address this subject matter. And no matter how focused they may be on preparing themselves, I would be so happy to recognize the gentleman from Texas who is my good friend, Mr. GOHMERT, for as much time as he may consume.

Mr. GOHMERT. I thank my friend from Iowa. You have pointed out some real problems and real issues with this hate crimes bill.

We are constantly being told there is an epidemic of hate crimes in America. You look at the statistics, and there are actually fewer crimes now attributed to any type of bias and prejudice than there were 10 years ago. Another problem is the States, every one, have laws to deal with crimes against a person. That is a State obligation, and every State has their own. And it's governed by the State law. And most States have a hate crime law.

This is the Federal Government, the Big Brother that Orwell talked about, coming into the thoughts of every individual.

Now we've been told that this bill will protect constitutional speech. It will protect religious speech. But that breaks down when they have to admit that, well, of course, if it's religious or constitutionally protected speech that is relevant to the underlying offense, then, of course, it is not protected.

Well, you can't take this new law in a vacuum because 18 U.S.C. 2(a) still exists, and it will exist if this becomes law. Some people who are not lawyers talk about it referring to accessories, but it is not. In legal circles, it's called the law of principals. And under Federal law, 18 U.S.C. 2(a), if you aid or encourage, counsel—and here's a big verb—or induce someone to commit a crime, then it is as if you are the one who committed a crime. It's called the law of principals. You induce someone else to commit a crime, you might as well have pulled the trigger or done it yourself.

So with that law existing and not going away when we pass the hate crimes bill, if heaven forbid it gets passed, then how do you go about inducing someone to commit a hate crime? Well, you'd probably have to tell them that an activity is wrong.

There are preachers, rabbis, imams across this United States of America all this week who will be telling people that there are certain types of sexual immorality that the Bible, the Tenach, the Koran, say are wrong. Well, if you're telling people that an activity is wrong and it hurts the moral fabric of the country and it undermines our moral authority in this Nation—and perhaps you even quote from the Bible or the Torah or the Koran where it talks about Sodom being destroyed because of the activity of those, that it got so bad that the people residing there even wanted to have sexual relations with two male angels that were sent, well, that, in both the Bible and the Torah, Tenach—where this is discussed—in the Koran, the same story is discussed in the Koran, you explain to people that God got so upset about this he destroyed Sodom and Gomorrah. Even today, you cannot find remnants of Sodom and Gomorrah. And you tell people that God feels so strongly about this that he's destroyed a city and you can't even find any remnants of the people or the cities.

And someone goes out—even though you have never encouraged violence—commits a violent act and says, Well, my preacher, my rabbi, my imam told me that this was wrong and it caused the destruction of a city and that really is what induced me to do this, you

don't think the preacher, the rabbi or the imam would be arrested for inducing that crime? Of course.

You can go even further. I can hear a prosecutor with a bent towards this kind of hate crime stuff going forward and saying, You know, we heard this preacher talking about homosexuality being wrong. That preacher should know that there are crimes of violence being carried out against homosexuals around the country that have gone on—even though they are lower in number than they were 10 years ago—they should know that and therefore since they are saying it's wrong, that stirs up all kinds of hard feelings. He should know he's inducing people to create crimes of violence. Therefore, we've got to stop him. He's attempting to induce a Federal hate crime.

This is serious stuff, because that's where you go. And the prosecutor could then say, ''Look. Yes, we arrested the preacher; yes, we booked him into jail, and yes, it is a question of intent. Did he intend to induce the crime? Well, I am going to leave that question for a jury to decide.'' You can hear that said by many prosecutors around the country on other issues: ''Look, I am not God. We will allow a jury to decide this question of fact on whether or not he intended to induce the crime.''

So getting back to basics, though, there is no epidemic. And as my friend from Iowa knows, in discussion, in debate in the committee and outside the committee, we've said, ''Now, what are the cases that justify the Federal intervention into this State law area?''

We're told what about James Byrd, that horrible case down in Jasper where this poor African American was drug to death by white guys, three of them. Two were most culpable. That justifies a Federal hate crime? No, it doesn't. Those two guys that were most culpable got the death penalty. This bill doesn't even offer the death penalty as a penalty. This bill wouldn't affect that case. The other guy got life in prison. This bill wouldn't affect that case at all.

Some have mentioned the terrible case regarding Nicholas West. From accounts, he was a sweet young man. He was picked as a victim because he was homosexual. Brutalized, kidnapped, killed. That was in my home county. The perpetrators have already been sentenced to death and the death sentence has been carried out. This case would not be affected.

Now, everyone in America deserves protection of the law. We get in trouble when we begin to carve out little special groups here and there that deserve more protection than someone else. You think a pregnant mother does not deserve the protection of a homosexual? You think a military member doesn't deserve the protection of a transvestite? You think that a particular child wouldn't deserve the protection of a transvestite, a transgender person? Why are we carving this out? They are protected under the law.

You know, there are those of us who believe the biblical teaching about homosexuality being inappropriate, but I've sentenced people for harming a homosexual because they deserve to be protected under the law. It doesn't matter who you are, it doesn't matter who you sleep with, you deserve to be protected, and we do our country a great injustice when we begin to say these deserve more protection than these over here.

But when we discuss sexual orientation—we brought that up in committee, and we were told, Well, it doesn't need a definition. For one thing, it's defined in another law in the Hate Crimes Statistical Act. Well, it was defined in that law as only including heterosexuality and homosexuality. We said, All right. If you think it's confined to that, why don't you put that definition in here?

''No, we don't need to do that.'' Well, you do.

I have been an appellate judge. You want to review what a definition of any word or phrase means in a bill? First, you look to see if it's defined, and if it's not defined, is there any direction to other laws within that bill that tells you, for the purpose of this law, what the definition is. They didn't want to do that. They didn't want to refer to the Hate Crime Statistical Act.

And yet here on page two of the bill, we've got other definitions. Crime of violence has the meaning given that term in section 16, title 18, U.S. Code. Hate crime has the meaning given such term in 28003(a) of the Violent Crime Control and Law Enforcement Act. Over here—I believe it's page 12—it talks about another definition of explosive or incendiary device has the meaning given such term in section 232 of this title. Firearm has the meaning given such term in 921(a) of this title.

Why wouldn't you define sexual orientation? You should. Because the Diagnostic and Statistical Manual IV tells us the names of different conditions. It talks about all the types of sexual orientation people have. There are all kinds of sexual orientations. Some are weird. Some are sick. Some will get you put in prison. But if you don't define it, they're included.

My friend from Iowa here, Mr. Speaker, made an amendment trying to exclude pedophiles from the protection of sexual orientation here because these people are oriented sexually towards children. That was voted down. Voted down. You know, you want to give pedophiles the protection, this extra protection you're not willing to give a pregnant women or a child or a mother or military? This is incredible. But that's what they did.

It creates the scenario, too, of other types of sexual orientation. Some are oriented toward exhibitionism. Some are oriented sexually toward voyeurism. This bill sets up the incredible scenario where a woman could see a man flash her and she is astounded, hits him with her purse, and takes off running. Under that scenario, if this became law, the flasher committed a misdemeanor and the woman that hit him with a purse—because he's oriented sexually towards exhibitionism—is now a Federal felon looking at 10 years in prison. That is insane. This makes no sense.

□ 2100

One other thing, though, as a judge dealing with different types of defendants, hearing all kinds of psychiatric testimony, psychological testimony, and just dealing with different defendants on thousands of cases, what struck me in what I heard was that people that are the hardest to rehabilitate are those who are antisocial personalities under the DSM–IV. They are harder to rehabilitate than people who act out of a bias or prejudice. And yet this bill says we are going after the people who are probably the most easy to rehabilitate and make them suffer more, if that's possible—you can't make anybody suffer more than the death penalty—but we are going to make them suffer more than someone who commits a crime out of bias or prejudice. It makes no sense.

Antisocial personalities, they know the difference between right and wrong, they could control their conduct, but they choose to do wrong. Many antisocial personalities like to hurt people. This bill, the way it is drafted and the way we are going to vote on it tomorrow—because we were not allowed one single amendment to come to the floor—creates the scenario where someone could be arrested for a hate crime in this bill, brought to Federal court, have a jury selected, put in the box, the trial go forward, and the defendant convince the jury that he committed the act of violence causing bodily injury to the defendant randomly—he didn't care who he hurt, he was gonna hurt somebody. And if he is successful in raising a reasonable doubt that he committed the crime randomly and he had no bias or prejudice, he just wanted to hurt somebody, under this bill that we vote on tomorrow, he is acquitted. That is insane. That is insane.

We are going to let the random, senseless killer, abuser, brutalizer go free under this bill? We need to pass laws that make sense. We need to pass laws that say every life in America is important. But this doesn't do that.

What saddens me greatly is that the bottom line of this hate crimes bill is—this is the message that goes out from this hate crimes bill we will vote on tomorrow—if you are going to hurt me, shoot me, brutalize me, please don't hate me; make it a random senseless act of violence. That is what this says. And that is why this should not become law.

I thank my friend from Iowa and yield back.

Mr. KING of Iowa. Reclaiming my time, and I very much thank the gentleman from east Texas for his clarity with his understanding of this legislation.

I would like to point out, Mr. Speaker, that I have sat with our committee staff, sat with my own staff. I have gone through this language. I have looked for a way that there is a consistent index between the definition that is in this legislation and understanding what it does. It doesn't exist. It is ambiguous. It is ambiguous, and it runs, actually, in contradiction to the existing statute that it references that the gentleman from Texas spoke to; one of them is a crime of violence definition, and the other one is a hate crime definition.

But also, the definition that is in the bill for gender identity, when I asked the question what is gender identity, and the answer that I received back in committee from the gentlelady from Madison, Wisconsin, was ''it is defined in the bill.'' Don't you know? Well, it is defined in the bill. Gender identity means ''actual or perceived gender-related characteristics.''

I am this Midwestern guy. We have a number of different kinds of fence posts; some of them are hedge posts, some are cedar posts, some are pine, creosote, pressure-treated. Some are steel, T-posts, round posts. You name them, we've got them. We've got electric fence posts as well. We have a whole different bunch of varieties.

Now, if I would define a fence post as ''actual or perceived characteristics of a fence post,'' you get the idea what the definition of gender identity is when it is the actual or perceived gender-related characteristics. It is no definition at all. And this definition will be defined by lawyers and judges, some activists, some that want to adhere to the law. None, if this legislation is passed, would be able to go back and track the definitions in this legislation and determine the intent of Congress, except to offer ambiguities that can be used at any extent.

And what a couple of the other ambiguities are; crime of violence means the threatened use of physical force against the person or property of another. But the bill doesn't say property, it says the person. But the definition in the bill says person or property.

A hate crime means a crime in which the defendant intentionally selects a victim, or in the case of a property crime, the property is the object of the crime, but the bill doesn't say property, it says a person that possesses these special protected characteristics—which makes them sacred cows in this society. And, Mr. Speaker, I, perhaps, will expand that thought of sacred cows, but I am much more interested in hearing from the gentlelady from Minnesota, who has arrived on the floor tonight to fill us in on her view of the hate crimes legislation.

I would be so happy to yield as much time as may be consumed by the gentlelady from Minnesota (Mrs. BACHMANN).

Mrs. BACHMANN. I want to thank so much my colleague, STEVE KING from Iowa—the ''stunning'' STEVE KING of Iowa, as he is known in the mainstream media, so grateful for your advocacy, and also for that of Judge GOHMERT. And Judge GOHMERT, I trust that you're a hanging judge down in the State of Texas.

I just wanted to have a chance to speak just for a few moments on this hate crimes legislation. It truly is momentous, this rule that we will take up tomorrow.

First of all, I just want to say, from my perspective, this appears to me easily to fit the definition of an unjust law. Why do I say that? Because this will bring to Americans more loss of freedom, more loss of rights than we have seen leave in this first 100 days here in Congress because it goes to the very heart of the Bill of Rights. When the Founders passed the Constitution, they would only pass it on one condition, and that is that the Bill of Rights would be passed next.

This is the very first amendment—what many consider the most important amendment—our First Amendment right. And contained in that First Amendment right is the freedom of speech and expression of religious affiliation. And this goes to the heart of taking away American's right to speech and expression and sincerely held religious beliefs.

I feel that this hate crimes legislation in some ways could be considered the very definition of tyranny because it gives government literally the key over deciding what the thoughts of Americans should be. And it says that Americans could only hold certain opinions and not others, and they can only express certain opinions and not others. Otherwise, it would be seen as a criminal act.

And I think back over this last century of world history, and I think of nations where they called certain expressions of speech not only hateful, but criminal. And that is what this bill does, it regulates speech. Government regulates speech. And it just seems that it is one more chink resulting in the loss of American freedom.

This bill, if it passes tomorrow, will have to be considered then a part of President Obama's 100-day legacy. And on his watch, if he chooses to sign this bill—and from all indications it appears he will—this will lay the foundation to further deny Americans First Amendment rights.

I think it also, we could say, denies equal protection under the law. If you have an individual going through a crosswalk and a person is in their car and they hit that person in the crosswalk, it is up to the person who is hit to file the charge if it was a hate crime or not. So if the person is gay, and that is the status that is being protected, and the person driving the car is straight, would it be a hate crime if the person driving the car who is straight hit the person who is gay in the crosswalk? So does it say, then, that that life that was hit in the crosswalk is more valuable because it was a gay life versus if the person who was in the car, who is gay, who hits the person in the crosswalk, who is straight, does that mean that the straight person in the crosswalk doesn't have a cause of action against the person who is gay who is driving that car? It raises the question of whose life is valuable and whose isn't. That is the question that Mr. GOHMERT raised earlier.

Who will the government prefer? And who decides who gets protected? Are we protecting people on the basis of their behavioral actions; if they choose to have certain actions that are sexual in a certain manner, they get protected when others don't? Who decides who gets to be the good guy in this situation? Who gets to decide who is the bad guy in this situation?

And I would ask this question, is it a moving target? If we give government this level of authority, then easily we can see that down the road government could amend this hate crimes law to say that now a new behavior will be protected.

One thing that was mentioned by Mr. GOHMERT earlier, that was brought up by Mr. KING, that apparently people who are practicing pedophiles would be considered protected under this legislation, but not, I understand, veterans, not, I understand, pregnant women, not, I understand, 85-year-old grandmothers would be protected under this law. But who would be protected? A pedophile, someone who considers themselves gay, someone who considers themselves transgender, someone who considers themselves a cross-dresser? That is who is protected.

And yet, think of the impossibility that we are tasking government with. We are asking government to peer into the mind of the individual who perpetrated the crime. Government somehow is so wise, so all knowing that now government can peer into the mind of the individual and can somehow discern if the individual in fact hated the person based upon, potentially, what their sexuality is versus the sexuality of the person who the crime was being perpetrated against. Won't that be a moving target? Depending on what the new behavior of the day—the behavior du jour, so to speak—that government approves or won't approve?

Again, I think this is the very definition of tyranny because government's arbitrary decision will mean that more Americans will lose their First Amendment freedom of speech and expression. And this is something, again, that Mr. GOHMERT had alluded to earlier. And that is when we can look, when this hate crime legislation has been put into place across the world, whether it is in Sweden, whether it is in Canada, whether it is in other nations, we can see what other nations have done with this type of legislation and what it has led to, the loss of freedom for individuals, citizens within those countries, and the citizens whose speech were protected.

Then I look at the specter of our own Supreme Court. One of our Justices,

Ruth Bader Ginsburg, said, again, we need to have more Supreme Court Justices in our country look at international laws and the laws of other countries when we define our own. Well, our judges could look at Sweden, they could look at Spain, they could look at Canada. And they could see that pastors and priests who spoke out and who just gave sermons behind their pulpit that promoted what the Bible says about sexuality—and homosexuality in particular—that was construed as a hate crime in Sweden, construed as a hate crime in Canada, in Britain, in Spain. And if that is the case, we will not allow pastors to even have freedom of speech and expression.

As a matter of fact, we saw in Britain where there was a collision course in the EU Constitution between freedom of speech and expression and between exercising religious rights. When that clashed and came into contact with the hate crimes portion of the law internationally, which provision prevailed? They were both contained in the Constitution, hate crimes and religious liberties, hate crimes versus freedom of speech and expression. On every occasion, the law that prevailed was the hate crimes provision. In every case, the provision that lost was the provision that so-called protected a person's right of religious belief and expression. Do we think we will fair any differently here in the United States? I don't think so.

I think the collision course that we are on this evening, Mr. Speaker, is one that probably should frighten Americans almost more than any other. And I say it because there is probably nothing more sacred in our Constitution than that very First Amendment that protects my conscience. And even if my beliefs or your beliefs or the beliefs of people that are listening to us have this debate this evening are antithetical to what all of us believe here this evening—someone might hold some very hateful beliefs, but we are America, shouldn't they be allowed to hold those beliefs? Shouldn't they be allowed to believe, in this country, things that are contrary to what government believes? But that is not going to be allowed anymore. And people's sincerely held religious beliefs can now be considered contrary to public policy. And we can see for the first time in our Nation that people would be disallowed from having their sincerely held religious beliefs.

I think we are seeing a little bit of death today in this Chamber. We are seeing what our Founders bled and died for go away a little bit more in this Chamber tonight. We can hear Patrick Henry. We can hear echos of Jefferson, echos of Madison this evening in this Chamber. What would Daniel Webster say?

□ 2115

And as much as they would rail against people assaulting other people on the basis of what they believed, certainly they would not elevate to a certain level an extra measure of protection for expression of that speech.

I thank the gentleman, I thank Mr. GOHMERT, and I thank the colleagues who are coming behind me because there is something that we should be fighting for. It's fighting for the idea that we are a Nation that is founded under God and that we have our rights emanating from a God who gave us unalienable rights, and we are losing that right tomorrow on this floor if this comes through.

Mr. KING of Iowa. I thank the gentlewoman from Minnesota very much for coming here to the floor and, Mr. Speaker, for inspiring the families across America to understand what's going on here in the United States Congress.

This is a powerful thing that is happening, and it undermines the principles of law that have held together for thousands of years in this modern era of special protected status for people based upon their self-alleged behavior and what goes on in their minds. This is a breathtaking thing that may take place here tomorrow, and I clearly oppose it, Mr. Speaker.

But in the interest of time, I'd be very happy to yield to the favorite daughter of Oklahoma, the gentlewoman (Ms. FALLIN).

Ms. FALLIN. Thank you to the gentleman from Iowa. I appreciate your hosting this hour tonight for us to discuss a very important issue to our Nation and a very important issue to this Congress and this body. And I appreciate the words that have been spoken so eloquently by my colleagues here tonight.

Mr. Speaker, I want to address a couple of things in this piece of legislation that should give us pause as we look at the intent of this legislation, this bill.

First of all, it would federalize a number of crimes that have traditionally been left to the States. Assault is a local crime. So is homicide. But under this bill, the Department of Justice would be allowed and encouraged to jump into these cases when they met certain criteria as a hate crime. The Federal Government does not have unlimited resources or even manpower; so do we really want the prosecutors, who should be dealing with things like terrorists or mobsters, dealing with and debating what a street corner thug may or may not have said or may or may not have thought when it comes to a mugging? Local law enforcement and local prosecutors, local courts do an outstanding job of handling such cases, and Congress should let them do their jobs.

But, second, this bill is also a clear violation of the equal protection clause of the 14th amendment. It creates a special class of victims. It says one victim is more important than another victim, and in doing so, it relegates every other victim to a position of second class. Assault is assault, murder is murder, and they are all hate crimes, in my opinion. But this bill elevates some victims and downgrades others. And this is every bit as unconstitutional as even a poll tax might be for this Nation.

And, third, this bill opens the door to the regulation of speech. And this really bothers me. One of our very basic foundations of our Nation, one of our very basic ideals of our Nation that we hold so dear is the freedom of speech, liberty and justice for all. I have to say I do find hate speech very abhorrent. It is childish. It is hurtful. It is wrong. But yet this piece of legislation, when you make hate speech a special precursor to a criminal act, you're only one step away from making speech itself an offense. And then who decides what comment will qualify for the hate speech?

When you look at some other countries like Canada and Great Britain who started out with hate crime laws like this and then they added hate speech as a separate offense and then what we find in those countries is now that Columnists in those countries must avoid certain subjects. Columnists must worry whether a caricature may become a crime.

And even more troubling is perhaps the way this legislation like this also threatens religion and freedom of religion. Should a Christian minister or a rabbi or an imam have to worry about what their message is maybe if it deals with something like sexuality and that might be considered to be hate speech? If so, that would be an unprecedented violation of the first amendment rights and a direct below to the religious liberty in this country.

This legislation may be well intentioned, but it also puts this country on a very dangerous path. And more importantly, the Constitution, as well as a sense of very basic fairness, prohibits the elevation of one class of citizens above another.

All victims deserve justice. All victims deserve equal justice, and it should be equally rendered. But this bill is the wrong answer, and I want to urge my colleagues to reject this legislation.

To the gentleman of Iowa, I appreciate you, once again, for allowing us the time to discuss a very important issue with our Nation and to express our opinions.

Mr. KING of Iowa. I so much thank the gentlewoman from Oklahoma for coming to the floor to raise the issue that is so important as this House prepares tomorrow to attempt to cross this great divide. This great divide from punishing the acts of a crime, the overt acts of a crime, to divining what was in the mind of the perpetrator and using a definition of what's in the mind presumably of the alleged victim in order to come to some conclusion as to how much prison time a person deserves for an overt act that can be defined but not the thoughts, Mr. Speaker.

At this point I'd be very happy to yield to the gentleman from South

Carolina. Since we had a favorite daughter from Oklahoma, I would like to introduce a favorite son of South Carolina. The wonderful hospitality of South Carolina which I have experienced in every trip I have made down there, the Representative of which is Mr. GRESHAM BARRETT.

Mr. BARRETT of South Carolina. I thank the gentleman for yielding. Not only is the gentleman from Iowa a stalwart when it comes to the conservative cause in this House, he is a classmate of mine and a dear friend. So I certainly thank him for all the fights he has been in in the past and will continue to be in in the future.

H.R. 1913, the Hate Crimes bill, this legislation is wrong and I oppose it because it creates a special class of victim, suppresses religious freedom, and criminalizes thought.

I ask you tonight why does Lady Liberty wear a blindfold? Isn't it because our Constitution demands equal, not special, but equal protection under the law?

Under this bill, justice will no longer be equal. It will depend on a victim's race, gender, or sexual orientation. This legislation would allow for different penalties to be imposed for the exact same crime.

While I'm not a constitutional scholar probably like my friend from Iowa, it's abundantly clear to me that this bill would violate the 14th amendment by creating a special class of victims who deserve some type of special protection under the law. More importantly, I fear this legislation would unwind a key thread to our judicial system by placing higher value on one life or lifestyle over another.

In addition to creating a special class of victims, this legislation could allow for criminal prosecution of religious leaders or members of religious groups who express their beliefs of their respective faiths. Pastors, imams, rabbis, people from across the country would now be forced to question the legality of the words that they preach. Consequently, this bill would inhibit religious freedom in our society. A scary thought.

Unfortunately, constitutionally protected speech is not the only freedom jeopardized by the Hate Crimes bill. This legislation would go so far as to guess what? Criminalize thought. No matter how fervently we disagree with what someone thinks, we cannot punish them for thinking it. It is the criminal action that merits swift justice. The action, not the thought or the motivation.

I fear that H.R. 1913 is a step in the wrong direction. When I think about justice, I think about justice for all no matter who you are in the United States of America. And I would urge all my colleagues tomorrow to vote ''no'' on H.R. 1913 because I certainly will be.

I thank the gentleman from Iowa for yielding. I thank him for weighing in on this fight.

Mr. KING of Iowa. I thank the gentleman from South Carolina for coming to the floor tonight and for addressing this subject matter.

Mr. Speaker, this so-called Hate Crimes legislation that proposes to understand and punish what's in the minds of people who may be committing crimes against victims or property, victims or property, Mr. Speaker. I don't know how somebody hates somebody else's property enough that if they would paint some graffiti on their garage door that what goes on in the mind of the person that has committed this act of vandalism can be punished with 10 years in the penitentiary but the act itself might be, well, let's say, a minimal fine for a misdemeanor of vandalism.

Mr. Speaker, I will lay out some scenarios here so that you and everyone else that is listening in can understand, I think, more clearly what's ahead of us. I have asked that we put together some definitions and these definitions that aren't in the bill, the definition that I described a little bit earlier of gender identity, when I asked the authors of the bill what is gender identity, they tell me, well, it's defined in the bill, don't you know. Defined in the bill, don't you know. And it's on page 14, line 24 and 25. Gender identity is the ''actual or perceived gender-related characteristics.'' And I described it, Mr. Speaker, as describing that, well, what is the definition of a fence post? Well, that's an item that has the characteristics of a fence post. What's the definition of gender identity? Well, that's ''actual or perceived gender-related characteristics.''

This is a lawyer's dream. This is a judge's dream. This is a full-blown open license to do whatever one will when you get into a criminal court of law and argue whatever one will. This is almost intentional ambiguity written into legislation, legislation that we tried mightily to refine and perfect with definitions and clarity in the Judiciary Committee. Each effort was rebutted without a logical, and I repeat that, Mr. Speaker, without a logical rebuttal. Just simply: This is our bill, it's going to come out of committee the way it came in because we have determined that's what it's going to be. And we have exposed so many vulnerabilities, so many weaknesses, so many built-in biases, so many unjust scenarios in the debate in the committee that lasted 2 days that the Speaker of the House and the Chair of the Judiciary Committee and whoever else who has something to say about this decided we dare not allow one single amendment on the floor of the House of Representatives because if we do, it will expose these ambiguities, it will expose the bias, it will expose the departure from the hundreds of years old tradition and knowledge of what law is.

Natural rights that come from God, Mr. Speaker. They are reflected also in English common law, and they flow through our Declaration, and they show up in our Constitution. And they are billed here in this Congress for more than 200 years. And we've punished always the overt act, not the thought, Mr. Speaker. And this is thought crimes; it's not hate crimes. We can't know if someone hates. Someone could commit a crime and not know what someone else's gender identity is, for example.

I will ask again how does one know? Could I go on the streets of Madison, Wisconsin, and go identify someone that fits this category of sexual orientation and discriminate against them? How do I know, Mr. Speaker?

And here are some of the protected qualifications that exist within the language of this bill. Never mind the verbal response was, well, no, sexual orientation only includes heterosexuality or homosexuality. Nothing else? No, nothing else. The expert from Madison, Wisconsin, where they should have some experts, I would think. Heterosexuality or homosexuality. It doesn't include bisexuality.

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So anybody on the continuum between extreme heterosexuality and extreme homosexuality, anybody that might fit exactly in the middle or anyone in the continuum, they would not be part of this definition of ''sexual orientation'' that is one of the subjects and one of the special protected classes of this bill.

So I look around, and we come up with some definitions for sexual orientation. Here is one. This is from the Merriam-Webster Dictionary, and it is sexual orientation. ''One's attraction to and preference in sexual partners.''

That is mental. It is up here. You can't know that. You can't see that. You can't tell that. It can't be independently verified. It is not an immutable characteristic. It may or may not be willfully changed by the person that has a particular sexual orientation, Mr. Speaker. That is a mental definition.

Here is the other physical definition of sexual orientation, and this is from the American Heritage Stedman's Medical—medical—Dictionary. It says this: ''Sexual activity with people of the opposite sex, the same sex or both.'' That is sexual orientation. So it might be the thought, it might be the act. It is not a physical characteristic. But gender may be a physical characteristic.

Now, I could go through this and confuse everyone more, and in the short period of time I have I will say this: We don't agree on what sexual orientation is, whether we are going to be defining it from the Merriam-Webster Dictionary or from the American Heritage Stedman's Medical Dictionary. They are two different things.

But if you look at the paraphilias that are produced by the American Psychology Association, here is what they have. And ''paraphilia'' is a powerful and persistent sexual interest other than typical sexual behavior. They have 547 specific sexual orientation proclivities, all of which are specially protected in this legislation, Mr. Speaker.

Here is another definition for sexual orientation. ''Refers to feelings and self-concept, not behavior.'' But it might be behavior, because we know that the American Heritage Stedman's Medical Dictionary says it is a behavior.

But here is a list of the particular paraphilias, you might call them proclivities, you might call them some other things, that are specially protected in this bill under the broad definition of sexual orientation. Some of these I just simply can't say here on this floor.

Asphyxophlia. That would be a fixation with, a proclivity for strangulation, starvation for oxygen.

Autogynephilia. That is someone who sees themselves as someone of the opposite sex, a man seeing himself as a woman or vice versa.

Bisexuality, which was defined in the committee as not part of it, is part of sexual orientation.

It goes on. I have a more concise list over here, Mr. Speaker, and that goes down the line of exhibitionism; incest; partialism, which is an obsession with a specific body part; masochism; sadism; scatalogia, that is obscene phone calls; toucherism, which is, you can imagine, someone who gropes; voyeurism; bestiality. The list of these things go on and on and on.

I offered the amendment, Mr. Speaker, that would have at least eliminated and given us a start, eliminated pedophilia. But pedophiles are specifically protected under this hate crimes legislation. Everything you can imagine is under there, every proclivity, every paraphilia is specially protected under this hate crimes legislation.

It makes a Federal crime out of something that has been a local crime, and they reach across the lines of logic in an unconstitutional fashion to define acts against these proclivities as Federal crimes.

So imagine this. Let's just say you were in Chicago, the President's hometown, and there are folks all in there at a sports bar watching a White Sox game versus the Cubs, or an interleague game perhaps, Mr. Speaker. And let's just understand that there is some friction involved between White Sox fans and Cubs fans, and they start to hurl some expletives and start to call each other some names and start to make some presumptions about the other side, the other fans, about what their particular proclivities might be. And someone throws a beer or an ashtray and pretty soon they get in a fight, and you have got 15 people on one side that are Cubs fans, 15 people on the other side who are White Sox fans, all of whom have been called some kind of name about their particular paraphilias or proclivities, and we have now a Federal hate crimes brawl on our hands that can enhance the penalties beyond that imagined by the aldermen of Chicago, the local jurisdiction that might be there.

It brings the Feds in to deal with this, to sort this all out, because we are going to imagine what is in the minds of these people that are Cubs fans and White Sox fans, and I for one can't imagine what would be in the mind of a White Sox fan.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. STARK (at the request of Mr. HOYER) for today.

Mr. JACKSON of Illinois (at the request of Mr. HOYER) for today on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TONKO) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. BRADY of Pennsylvania, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. HENSARLING) to revise and extend their remarks and include extraneous material:)

Mr. POE of Texas, for 5 minutes, May 5.

Mr. JONES, for 5 minutes, May 5.

Mr. MCHENRY, for 5 minutes, April 30, May 4 and 5.

Mr. CONAWAY, for 5 minutes, today and April 29.

Ms. ROS-LEHTINEN, for 5 minutes, April 29.

Mr. FLAKE, for 5 minutes, today and April 29.

Mr. CARTER, for 5 minutes, April 29.

ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 29, 2009, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1422. A letter from the Director, Policy Issuances Division, Department of Agriculture, transmitting the Department's final rule — Requirements for the Disposition of Cattle that Become Non-Ambulatory Disabled Following Ante-Mortem Inspection — received March 30, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1423. A letter from the Management Analyst, Rural Development, RUS, Department of Agriculture, transmitting the Department's final rule — General Policies, Types of Loans, Loan Requirements-Telecommunications (RIN: 0572-AC13) received March 26, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1424. A letter from the Acting Administrator Risk Management Agency, Department of Agriculture, transmitting the Department's final rule — Common Crop Insurance Regulations; Cabbage Crop Insurance Provisions (RIN: 0563-AB99) received March 23, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1425. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Modification of Pesticide Tolerance Revocation for Diazinon [EPA-HQ-OPP-2007-1170; FRL-8410-1] received April 9, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1426. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Cyhalofop-butyl; Pesticide Tolerances [EPA-HQ-OPP-2008-0361; FRL-8406-8] received April 3, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1427. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Spiromesifen; Pesticide Tolerances [EPA-HQ-OPP-2008-0272; FRL-8406-6] received April 3, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1428. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Thiamethoxam; Pesticide Tolerances [EPA-HQ-OPP-2008-0167; FRL-8407-8] received April 3, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1429. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Captan, 2,4-D, Dodine, DCPA, Endothall, Fomesafen, Propyzamide, Ethofumesate, Permethrin, Dimethipin, and Fenarimol; Technical Amendment [EPA-HQ-OPP-2007-0097; FRL-8407-2] received March 27, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1430. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Oil Pollution Prevention; Non-Transportation Related Onshore Facilities; Spill Prevention, Control, and Countermeasure Rule — Final Amendments [EPA-HQ-OPA-2007-0584; FRL-8788-5] (RIN: 2050-AG16) received March 27, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1431. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Prothioconazole; Pesticide Tolerance [EPA-HQ-OPP-2008-0327; FRL-8403-9] received March 27, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1432. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Quinoxyfen; Pesticide Tolerances [EPA-HQ-OPP-2008-0362; FRL-8405-2] received March 27, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1433. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Castor Oil, Ehtoxylated, Oleate; Tolerance Exemption [EPA-HQ-OPP-2008-0666; FRL-8399-8] received March 23, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.