House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, our message today is really directed at the majority. We are asking them not to shoot themselves in the foot, not to let this wonderful economy be dissipated by policies that are contrary to the public interest, tax cut policies that are counterproductive at best and severely damaging to our economy at worst.

We know that we are enjoying the finest economy that this country has ever experienced. And it can be a sustainable economy. We have had a decade of unprecedented profits and productivity with low inflation and high employment.

The only thing that could kill that prosperity now is a tax cut that was too deep, that was irrational, that gave relatively small amounts of benefit to a lot of people who need them the least. The fact is that too deep a tax cut will arrest the kind of controlled inflation and low unemployment that we are now experiencing. An $800-billion tax cut is too deep.

We can responsibly target our tax cuts and achieve more at ⅓ the revenue cost. We can keep this economy going. We can keep inflation low. Do not give Mr. Greenspan reason to increase interest rates. We have got a good thing going. Let us keep it going. Do not go overboard with an irrational tax cut.

THE JOURNAL

The SPEAKER pro tempore (Mr. HEFLEY). Pursuant to clause 8 of rule XX, the pending business is the question of agreeing to 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.

Mr. HAYES. 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 346, nays 53, answered ''present'' 2, not voting 33, as follows:

[Roll No. 297]

YEAS—346

Abercrombie	Barrett (WI)	Blagojevich
Ackerman	Bartlett	Bliley
Allen	Barton	Blumenauer
Andrews	Bass	Blunt
Armey	Bateman	Boehlert
Bachus	Becerra	Boehner
Baird	Bentsen	Bonilla
Baker	Bereuter	Bono
Baldacci	Berkley	Boswell
Ballenger	Berman	Boucher
Barcia	Berry	Boyd
Barr	Biggert	Brady (PA)
Barrett (NE)	Bishop	Brady (TX)
Brown (FL)	Hinojosa	Ortiz
Brown (OH)	Hobson	Ose
Bryant	Hoeffel	Owens
Burton	Hoekstra	Oxley
Buyer	Holden	Packard
Callahan	Holt	Pascrell
Calvert	Hooley	Paul
Camp	Horn	Payne
Campbell	Hostettler	Pease
Canady	Houghton	Pelosi
Cannon	Hoyer	Peterson (PA)
Capps	Hyde	Petri
Cardin	Inslee	Pickering
Castle	Isakson	Pitts
Chabot	Istook	Pomeroy
Chambliss	Jackson (IL)	Portman
Clayton	Jackson-Lee (TX)	Price (NC)
Clement	Jefferson	Pryce (OH)
Coble	Jenkins	Quinn
Coburn	John	Radanovich
Collins	Johnson, E. B.	Rahall
Combest	Johnson, Sam	Rangel
Condit	Jones (NC)	Reyes
Conyers	Kanjorski	Reynolds
Cook	Kaptur	Riley
Cooksey	Kelly	Rodriguez
Cox	Kildee	Roemer
Coyne	Kilpatrick	Rogers
Cramer	Kind (WI)	Rohrabacher
Crowley	King (NY)	Ros-Lehtinen
Cubin	Kingston	Rothman
Cunningham	Kleczka	Roukema
Danner	Klink	Roybal-Allard
Davis (FL)	Knollenberg	Royce
Davis (IL)	Kolbe	Ryan (WI)
Davis (VA)	Kuykendall	Salmon
Deal	LaHood	Sanchez
DeGette	Lampson	Sanders
DeLauro	Lantos	Sandlin
DeLay	Largent	Sanford
DeMint	Larson	Sawyer
Deutsch	LaTourette	Saxton
Diaz-Balart	Lazio	Scarborough
Dickey	Leach	Schakowsky
Dicks	Lee	Scott
Doggett	Levin	Sensenbrenner
Dooley	Lewis (GA)	Serrano
Doolittle	Lewis (KY)	Sessions
Doyle	Linder	Shadegg
Dreier	Lipinski	Shaw
Duncan	Lofgren	Shays
Dunn	Lowey	Sherman
Edwards	Lucas (KY)	Sherwood
Ehlers	Lucas (OK)	Shimkus
Ehrlich	Luther	Shows
Emerson	Maloney (CT)	Shuster
Engel	Maloney (NY)	Simpson
Eshoo	Manzullo	Sisisky
Etheridge	Markey	Skeen
Evans	Martinez	Skelton
Everett	Mascara	Smith (MI)
Ewing	Matsui	Smith (NJ)
Farr	McCarthy (MO)	Smith (TX)
Fletcher	McCarthy (NY)	Smith (WA)
Foley	McCollum	Snyder
Forbes	McCrery	Souder
Ford	McHugh	Spence
Fossella	McInnis	Spratt
Fowler	McIntosh	Stark
Frank (MA)	McIntyre	Stearns
Franks (NJ)	McKeon	Stenholm
Frelinghuysen	Meehan	Stump
Gallegly	Meeks (NY)	Stupak
Ganske	Menendez	Sununu
Gejdenson	Metcalf	Talent
Gekas	Mica	Tauscher
Gilchrest	Millender-McDonald	Tauzin
Gilman	Miller (FL)	Taylor (NC)
Gonzalez	Miller, Gary	Terry
Goode	Minge	Thomas
Goodlatte	Mink	Thornberry
Goodling	Moakley	Thune
Gordon	Mollohan	Tiahrt
Goss	Moore	Tierney
Graham	Moran (VA)	Toomey
Granger	Morella	Towns
Green (TX)	Murtha	Traficant
Green (WI)	Myrick	Turner
Greenwood	Nadler	Upton
Hall (OH)	Napolitano	Velazquez
Hall (TX)	Nethercutt	Vento
Hansen	Ney	Vitter
Hastings (FL)	Northup	Walden
Hastings (WA)	Norwood	Walsh
Hayes	Nussle	Wamp
Hayworth	Obey	Watkins
Hefley	Olver	Watt (NC)
Herger	Ortiz	Waxman
Hill (IN)	Ose	Weiner
Weldon (FL)	Wicker	Woolsey
Wexler	Wilson	Wynn
Weygand	Wise	Young (AK)
Whitfield	Wolf	Young (FL)

NAYS—53

Aderholt	Hilliard	Ramstad
Bilbray	Hinchey	Rogan
Bilirakis	Hulshof	Sabo
Bonior	Hutchinson	Schaffer
Borski	Kucinich	Slaughter
Clay	LaFalce	Strickland
Clyburn	LoBiondo	Sweeney
Costello	McGovern	Tanner
Crane	McKinney	Taylor (MS)
DeFazio	Moran (KS)	Thompson (CA)
Fattah	Neal	Thompson (MS)
Filner	Oberstar	Udall (CO)
Gephardt	Pallone	Udall (NM)
Gibbons	Pastor	Visclosky
Gillmor	Peterson (MN)	Waters
Gutknecht	Phelps	Weller
Hill (MT)	Pickett	Wu
Hilleary	Pombo	

ANSWERED ''PRESENT''—2

Carson	Tancredo

NOT VOTING—33

Archer	Frost	Meek (FL)
Baldwin	Gutierrez	Miller, George
Brown (CA)	Hunter	Porter
Burr	Johnson (CT)	Regula
Capuano	Jones (OH)	Rivers
Chenoweth	Kasich	Rush
Cummings	Kennedy	Ryun (KS)
Delahunt	Latham	Stabenow
Dingell	Lewis (CA)	Thurman
Dixon	McDermott	Watts (OK)
English	McNulty	Weldon (PA)

☐ 1101

Mr. PHELPS changed his vote from ''yea'' to ''nay.''

So the Journal was approved.

The result of the vote was announced as above recorded.

RELIGIOUS LIBERTY PROTECTION ACT OF 1999

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 245 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 245

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 1691) to protect religious liberty. The bill shall be considered as read for amendment. The amendment recommended by the Committee on the Judiciary now printed in the bill shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) a further amendment printed in the Congressional Record pursuant to clause 8 of rule XVIII, if offered by Representative Conyers of Michigan or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. HEFLEY). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman

from Ohio (Mr. HALL), 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.

Yesterday, the Committee on Rules met and granted the structured rule for H.R. 1691, the Religious Liberty Protection Act.

The rule provides for 1 hour of debate to be equally divided between the chairman and ranking minority member of the Committee on the Judiciary.

The rule waives all points of order against consideration of the bill.

The rule makes in order an amendment in the nature of a substitute if printed in the CONGRESSIONAL RECORD and if offered by the gentleman from Michigan (Mr. CONYERS) or his designee, debatable for 1 hour, equally divided between the proponent and an opponent.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, this is a fair rule which will permit a thorough discussion of all the relevant issues. In fact, the Committee on the Judiciary considered one amendment during its markup of H.R. 1691, and that amendment is made in order under this rule.

Prior to 1990, Mr. Speaker, the Supreme Court vigorously protected our first amendment freedoms. A State or local government could not impede religious expression unless its laws were narrowly tailored to protect a compelling government interest. In 1990, this all changed. In the case of Employment Division v. Smith, the Supreme Court ruled that churches are subject to all generally applicable and civil laws as long as the laws were not enacted in a blatant attempt to suppress religious expression.

The potential impact of the Smith case is frightening. Now police can arrest a Catholic priest for serving communion to minors in violation of a State's drinking laws. Local officials can force an elderly lady to rent her apartment to an unwed or homosexual couple in violation of her Christian beliefs. Our law enforcement officials can conduct an autopsy on an Orthodox Jewish victim in violation of the family's religious beliefs.

Mr. Speaker, this is wrong, and it has to be changed. The Religious Liberty Protection Act would essentially overturn the Smith decision and return religious expression to its rightful place.

Under H.R. 1691, State and local officials must narrowly draft their commerce regulations so they do not penalize religion. In addition, under the bill anyone who receives Federal grant moneys cannot then turn around and discriminate against religion, and State and local governments cannot adopt land use laws that treat religious organizations differently than secular organizations. There are legitimate health and safety reasons for local governments to make zoning decisions, but religious discrimination is not one of them.

I urge my colleagues to support this rule and to support the underlying legislation.

Again I repeat:

The Committee on the Judiciary considered only one amendment during its markup of H.R. 1691, and that amendment is made in order under this rule.

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

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume, and I want to thank my colleague, the gentlewoman from North Carolina (Mrs. MYRICK), for yielding me the time.

Mr. Speaker, this is a structured rule. It will allow for consideration of H.R. 1691, which is called the Religious Liberty Protection Act. As my colleague from North Carolina has explained, this rule provides 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule permits only one amendment which may be offered by the ranking minority member of the Committee on the Judiciary or his designee.

The bill restricts States or local governments from passing laws that impose a substantial burden on an individual's rights to practice his or her religion. The bill attempts to reverse the effects of a Supreme Court decision which made it easier for States to interfere with religious freedom. This bill balances the right of individuals to practice their religion against the need of the States to regulate the conduct of their citizens. The bill attempts to give the right to practice religion the same kind of protected status as the right of free speech.

I want to call attention to the enormous support this bill has received from the religious community. It is supported by more than 70 religious and civil liberty groups including Protestant, Catholic, Jewish and Muslim groups. I do not think I have ever seen one piece of legislation unite so many different religious organizations as this bill has done.

America was founded by people who wanted to practice their religion free from government interference, and I am pleased to be a cosponsor of this bill because I think it will protect the basic American right, freedom of religion.

Mr. Speaker, the bill has broad bipartisan support and was adopted in an open committee process. I urge adoption of the rule and the bill.

Mrs. MYRICK. Mr. Speaker, I yield 3½ minutes to the gentleman from Texas (Mr. PAUL).

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

Mr. PAUL. Mr. Speaker, I rise in support of this rule but in opposition to the bill.

Mr. Speaker, as a legislature of enumerated powers, Congress may enact laws only for constitutionally authorized purposes. Despite citing the general welfare and commerce clause, the purpose of H.R. 1691 is obviously to ''protect religious liberty.'' However, Congress has been granted no power to protect religious liberty. Rather, the first amendment is a limitation on congressional power. The first amendment of the United States Constitution provides that Congress shall make no law prohibiting the free exercise of religion, yet H.R. 1691 specifically prohibits the free exercise of religion because it authorizes a government to substantially burden a person's free exercise if the government demonstrates some nondescript, compelling interest to do so.

The U.S. Constitution vests all legislative powers in Congress and requires Congress to define government policy and select the means by which that policy is to be implemented. Congress, in allowing religious free exercise to be infringed using the least restrictive means whenever government pleads a compelling interest without defining either what constitutes least restrictive or compelling interest delegates, to the courts legislative powers to make these policy choices constitutionally reserved to the elected body.

Nowhere does H.R. 1691 purport to enforce the provisions of the fourteenth amendment as applied to the States. Rather, its design imposes a national uniform standard of religious liberty protected beyond that allowed under the United States Constitution, thereby intruding upon the powers of the State to establish their own policies governing protection of religious liberty as preserved under the tenth amendment. The interstate commerce clause was never intended to be used to set such standards for the entire Nation.

Admittedly, instances of State government infringement of religious exercise can be found in various forms and in various States, most of which, however, occur in government-operated schools, prisons and so-called government enterprises and as a consequence of Federal Government programs. Nevertheless, it is reasonable to believe that religious liberty will be somehow better protected by enacting national terms of infringement, a national infringement standard which is ill-defined by a Federal legislature and further defined by Federal courts, both of which are remote from those whose rights are likely to be infringed.

If one admires the Federal government's handling of the abortion question, one will have to wait with even greater anticipation to witness the Federal government's handiwork with respect to religious liberty.

To the extent governments continue to expand the breadth and depth of their reach into those functions formally assumed by private entities, governments will continue to be caught in a hopeless paradox where intolerance of religious exercise in government facilities is argued to constitute establishment and, similarly, restrictions of

religious exercise constitute infringement.

Mr. Speaker, our Nation does not need an unconstitutional Federal standard of religious freedom. We need instead for government, including the courts, to respect its existing constitutional limitations so we can have true religious liberty.

Mr. MOAKLEY. Mr. Speaker, I yield 7 minutes to the gentleman from Texas (Mr. EDWARDS).

□ 1115

Mr. EDWARDS. Mr. Speaker, I rise in support of this rule and this bill, the Religious Liberty Protection Act. The first 16 words of the Bill of Rights were carefully chosen by our Founding Fathers to protect the religious freedom of all Americans. The words are these: ''Congress shall pass no law respecting an establishment of religion or prohibiting the free exercise thereof.''

For over 200 years those words and the principles they represent have given Americans a land of unprecedented religious freedom and tolerance. The establishment clause was intended to prohibit government from forcing religion upon citizens. The free exercise clause was designed to keep government from limiting any citizen's rights to exercise his or her own religious faith.

In recent weeks, I have been greatly concerned about congressional efforts that I felt would undermine the establishment clause and consequently tear down the wall of separation between church and State. Our Nation's religious community has been seriously divided on these issues. However, the legislation today does not focus on the establishment clause. Rather, it focuses on the importance of the free exercise clause of the First Amendment.

I would suggest that the freedom to exercise one's religious beliefs is the foundation for all other freedoms we cherish as Americans. Without freedom of religion, the freedom of speech, press, and association lose much of their value.

It is a commitment to the free exercise of religion that has united over 70 religious and civil rights organizations in support of this bill. It is the free exercise of religion that has united religious groups in support of this legislation that have been badly divided on so many other religious measures recently before this House.

I will greatly respect Members of this House who cannot support this legislation today because I believe religious votes should be a matter of conscience, not of party. However, I am gratified to see so many diverse religious organizations coming together on this particular issue. Organizations from the Anti-Defamation League to the Christian Coalition, numerous organizations such as the American Jewish Committee, the American Congress, the Methodist church, the Southern Baptist Convention, groups that have very seldom come together in recent days, have come together in the support of the free exercise of individual American's religious rights.

Mr. Speaker, the point I make in listing some of these organizations in support of this is not to say any Member must or should support this bill because of these religious groups' endorsement. My point is that this legislation was put together on a broad-based nonpartisan basis. Its intent was to protect religion, not to deal in partisan issues. The common bond of these diverse religious groups on this issue measure is that they all believe that government should have to show a compelling reason to limit any citizen's religious rights. I agree with those groups.

More importantly, I believe the Founding Fathers intentionally began the First Amendment with the protection of religious rights because they recognized the fundamental role of religious freedom in our society.

Now, I have been interested to see that some local and State officials have argued recently that this legislation might inconvenience them. Let me say that I agree. In fact, if they will reread the Bill of Rights, the Bill of Rights was written precisely to inconvenience governments. The Bill of Rights was written to make it inconvenient to step on the religious rights of citizens in this country.

For that reason, I think this is a measure that should pass for the very precise reason that it does inconvenience local and State governments in their efforts as mentioned by the gentlewoman from North Carolina (Mrs. MYRICK) in her speech, their efforts to limit the rights of Americans in their religious exercise.

Others, Mr. Speaker, might argue in good faith that this bill will be used by some religious groups to defend discrimination based on sexual orientation. I can only say that it is neither my intent as a primary cosponsor of this bill nor the intent of the religious groups with whom I have met to design a bill for that purpose. Our intent is rather to build into the statutes a shield against government regulations that would limit religious freedom. Our intent, in the words of Rabbi David Sapperstein, is to clarify, quote, ''A universal, uniform standard of religious freedom.''

This legislation protects the right of government entities to limit religious actions if there is a compelling interest to do so. Court cases have clearly established, for example, that protecting against race and gender discrimination are compelling State interests, as are safety and health protections in the laws.

In the real world I recognize there are sometimes direct conflicts between one citizen's right and another citizen's right. That is why we have the judicial system, a system that can look at those issues on a case-by-case basis. I believe the judicial system, rather than the legislative system, is the best way to determine those specific cases.

Consequently, personally I believe it would be a mistake for Congress in this bill to try to define who does and who does not have protected religious rights or to exclude certain circumstances from free exercise protections under this bill. Whether intended or not, and I do not think it is intended, such an action could in some cases relegate religious rights to a secondary status, something I do not think our Founding Fathers intended when they chose the first words of the first amendment to protect religious liberty.

To my Democratic colleagues who will vote for the Nadler amendment, I respect your decision. No one in this House has been a stronger defender of religious liberty and civil rights in Congress than the gentleman from New York (Mr. NADLER), and I respect his genuine concerns about possible conflicts between religious rights and other rights.

However, if the gentleman's amendment fails, I would hope that Members who supported his amendment would vote for final passage of this bill. The need to protect religious freedom and to do it today is real. It is important. This bill can still be modified in the Senate, in the conference committee, and Members can make their final decision on passage at that time. But the principle of protecting religious freedom in my opinion is too important to delay.

Mr. Speaker, no bill is perfect. I do not suggest this bill meets that impossible standard. But I believe the Religious Liberty Protection Act deserves our support because it protects the fundamental principle that government must have compelling reason to limit the religious rights of individual citizens. I can find few reasons more compelling to support any legislation before this House.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I rise in support of this rule and of the legislation and certainly in support of the remarks just made by the gentleman from Texas (Mr. EDWARDS) that were so well said in this area.

This is clearly an area that needs protection. It is an area where local governments constantly in recent years have fought in the face of what we consider to be First Amendment rights. A small church in Florida was ordered to stop its feeding ministry for feeding the homeless.

In Greenville, South Carolina, home Bible study was banned in communities that could still have at the exact same locations Tupperware parties. When local ordinances ban Bible study but allow Tupperware parties there is some significant violation of the First Amendment there.

A family in Michigan was tried under criminal statutes because they educated their children at home for religious reasons and did not have certification. In Philadelphia, Pennsylvania,

Christian day care centers were threatened with closure if they did not change their hiring practices which barred them from hiring non-Christians, but these were Christian day care centers.

In Douglas County, Colorado, officials tried to limit the operational hours of churches. A local community college required a loyalty oath that made it impossible for Jehovah witnesses whose faith instructs against taking those oaths to go to work at that facility. Certain fire and police stations promulgate a blanket of no beards rules which interferes with, among other groups, Muslim firefighters.

Mr. Speaker, these infringements on religious liberty are significant. They are not pervasive yet, but they are certainly prevalent. This bill allows churches in places like Rolling Hills Estates, California, to build in an area that was zoned commercial where the churches are told they cannot build if they want to, but adult businesses and adult massage parlors can be built in this same area of that community.

The RLPA would allow an orthodox Jewish community to build their houses of worship within walking distance of their neighborhoods. It would allow prison ministries, which have had such a great impact all over the country, to continue to do efforts and prison programming that are currently threatened. This would also deal with the question of land-use regulation that so affects religious practice in communities today.

Mr. Speaker, I would like to enter into the RECORD, as I conclude my comments in support of this rule, I would like to enter into the RECORD a list that is even more inclusive than the list that was just referred to by the gentleman from Texas of religious groups that really cover a broad, broad spectrum of religious activity and association in this country who are in favor of H.R. 1691, and I am sure would also encourage the passage of this rule so we can get on to this important debate.

ORGANIZATIONS AND SUPPORTERS OF R.L.P.A.

Agudath Israel of America
The Alepha Institute
American Baptist Churches USA
American Center for Law and Justice
American Conference on Religious Movements
American Ethical Union, Washington Ethical Action Office
American Humanist Association
American Jewish Committee
American Jewish Congress
American Muslim Council
Americans for Democratic Action
Americans for Religious Liberty
Americans United for Separation of Church & State
Anit-Defamation League
Association of Christian Schools International
Association on American Indian Affairs
Baptist Joint Committee on Public Affairs
B'nai B'rith
Campus Crusade for Christ
Catholic League for Religious and Civil Rights
Central Conference of American Rabbis
Christian Church (Disciples of Christ)
Christian Coalition
Christian Legal Society
Christian Science Committee on Publication
Church of the Brethren
Church of Jesus Christ of Latter-day Saints
Church of Scientology International
Coalition for Christian Colleges and Universities
Council of Jewish Federations
Council on Religious Freedom
Council on Spiritual Practices
Criminal Justice Policy Foundation
Episcopal Church
Ethics & Religious Liberty Commission of the Southern Baptist Convention
Evangelical Lutheran Church in America
Family Research Council
Focus on the Family
Friends Committee on National Legislation
General Conference of Seven-day Adventists
Guru Gobind Singh Foundation
Hadassah, the Women's Zionist Organization of American, Inc.
Interfaith Religious Liberty Foundation
International Association of Jewish Lawyers and Jurists
International Institute for Religious Freedom
Japanese American Citizens League
Jerry Falwell's Liberty Alliance
Jewish Council for Public Affairs
The Jewish Policy Center
The Jewish Reconstructionist Federation
Justice Fellowship
Kay Coles James
Liberty Counsel
Mennonite Central Committee U.S.
Muslim Prison Foundation
Muslim Public Affairs Council
Mystic Temple of Light, Inc.
NA'AMATUSA
National Association for the Advancement of Colored People
National Association of Evangelicals
National Campaign for a Peace Tax Fund
National Committee for Public Education and Religious Liberty
National Council of Churches of Christ in the USA
National Council of Jewish Women
National Council on Islamic Affairs
National Jewish Coalition
National Jewish Commission on Law and Public Affairs
National Native American Prisoner's Rights Advocacy Coalition
National Sikh Center
Native American Church of North America
Native American Rights Fund
Native American Spirit Correction Project
Navajo Nation Corrections Project
North American Council For Muslim Women
Pacific Justice Institute
People For the American Way Action Fund
Peyote Way Church of God
Presbyterian Church (USA), Washington Office
Prison Fellowship Ministries
Rabbinical Council of America
Religious Liberty Foundation
Rutherford Institute
Sacred Sites Inter-faith Alliance
Soka-Gakkai International—USA
Union of American Hebrew Congregations
Union of Orthodox Jewish Congregations of America
Unitarian Universalist Association of Congregations
United Church of Christ, Office for Church in Society
United Methodist Church, Board of Church & Society
United States Catholic Conference
United Synagogue of Conservative Judaism
Women of Reform Judaism, Federation of Temple Sisterhood

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me this time.

Mr. Speaker, I rise in support of the rule on H.R. 1691 and also for the subsequent legislation. What this legislation attempts to do is put some common sense in the murky waters of the First Amendment regarding the separation of church and state. And we can say, well it ought to be crystal clear. But that water is murky, and it will remain murky.

Mr. Speaker, a couple of examples: we all remember the debate several years ago about nursing homes that receive Medicare not being able to have in their advertising in the Yellow Pages religious symbols if they have a religious, faith-based organization that supports the nursing home. If they want to use a cross in the Yellow Pages, that is a violation.

The prayer-in-school issue, and this does not really affect these directly, but I am trying to prove a point about the murky water. Should kids be allowed to pray in school, nondenomination school prayer? There have been lots of cases on this, but let us look at the case of Littleton, Colorado. If a teacher were huddled in the classroom while gun shots were outside the door and in a room safely with kids and that teacher said, ''Can we bow our heads and say a prayer,'' as the shots were fired outside the door, they are not allowed to do that.

Mr. Speaker, the point is there is murky water in the question of religion, prayer, and the role of the State. And what this does in a narrowly defined area, and that area which was really opened up by the Employment Division versus Smith decision in 1990, it simply tries to put some common sense into it by saying that the local laws, the laws of the State cannot interfere with religious beliefs.

I think it is a very small step. It is a very carefully balanced bill. It is crafted. It is not, in terms of public prayer, a significant public religion-type bill at all. This again is just a very slight adjustment and it tries to put common sense in it.

Mr. Speaker, I urge my colleagues to support this. It is bipartisan and I hope that we can move it and get back to some of the other issues that are before Congress.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida (Mr. CANADY), the subcommittee chairman.

Mr. CANADY of Florida. Mr. Speaker, I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me this time. And I thank all the members of the Committee on Rules for their bipartisan support for the rule that is before the House now. I would particularly like to also thank the gentleman from Texas (Mr. EDWARDS) for

his leading role in sponsoring this legislation.

Mr. Speaker, I want to respond very briefly to a point that the gentleman from Texas (Mr. PAUL), my good friend, raised concerning our government being a government of enumerated powers. I certainly agree with him on that point and this bill is by no means inconsistent with the principle that we are a government of enumerated powers.

Indeed, this bill is carefully drafted with that principle in mind and is carefully based on specific enumerated powers of the Congress which are set forth in the United States Constitution.

□ 1130

In using the enumerated powers that are in this bill, we are following well-established tradition with respect to the use of those same powers to protect civil rights other than the free exercise of religion.

We use the commerce clause in this bill to protect the free exercise of religion. That same power is used in the 1964 Civil Rights Act to protect against discrimination in employment and public accommodations.

We use the spending clause in this bill to protect against the infringement of religious freedom. That same power is used once again in the 1964 Civil Rights Act under title VI of that Act to prevent discrimination in programs at the State and local level, which receive Federal funds.

We also use section 5 of the 14th amendment, which was used previously in the civil rights context to protect voting rights. So we are following in a well-established tradition of protecting civil rights using enumerated powers of the Congress under our Constitution.

This bill is carefully crafted. I want to thank the Members of the Committee on Rules for bringing forward a rule which allows for the consideration of this bill, and I urge all Members to support the rule and to support the bill on final passage, without amendment.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. CONYERS), the ranking member of the committee.

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

Mr. CONYERS. Mr. Speaker, I want to thank the distinguished gentleman from Massachusetts (Mr. MOAKLEY), the ranking member of Committee on Rules, for granting me the time.

Religious freedom has been one of the cornerstones of American democracy, of course, since our founding. Like the Members of this body, I believe all of them, I am committed to preserving religious freedom.

So we have before us soon today, first of all, we have a rule which I am in support of, but the bill, well-intentioned as it is, may cause far more harm than good. Because, instead of limiting religious discrimination, it will allow for an increase in other forms of discrimination. Instead of enhancing constitutional protections, it may very well run afoul of the Constitution itself.

I would like to take a moment or two to explain this. A letter came to me from the American Civil Liberties Union that started out working with a coalition supporting this bill. It was multiracial, multireligious. But now the Religious Liberty Protection Act is being opposed by the Civil Liberties organization because it does not include explicit language ensuring that the language will not undermine the enforcement of civil rights laws.

The Congress should not break from its long-standing practice, they say, of refraining from undermining or preempting State civil rights laws that are more protective of civil rights sometimes than even Federal law.

So the opposition by the Civil Liberties organization is, unless this bill is corrected and amended to protect civil rights laws, and I think the substitute of the gentleman from New York (Mr. NADLER) would accomplish this, we would have a very serious problem.

The Civil Liberties Union goes on to say that,

We are no longer a part of the coalition supporting the Religious Liberty Protection Act because we could not ignore the potentially severe consequences that it may have on State and local civil rights laws. And although we believe that courts should find civil rights laws compelling and uniform enforcement of these laws the least restrictive means, we know that at least several courts have already rejected that position.

We have found that landlords across the country have been using State religious liberty claims to challenge the application of State and local civil rights laws protecting persons against marital status discrimination.

Now, none of these claims involve owner-occupied housing. All of the landlords owned many investment properties that were outside of the State laws exemptions for small landlords. These landlords are companies. And they all sought to turn the shield of religious exercise protection into a sword against civil rights prospective tenants.

So, Mr. Speaker, we want to consider an alternative, an improvement, if possible, to this measure. Without this improvement, I think this is a serious regression in both religious liberty and in civil rights protections as well.

Remember, if you will, that a measure that will lead to an increase in discrimination, because whenever a party is sued for discrimination, this bill will allow in effect, the religious liberty defense, it will in effect allow a defendant to say, I have discriminated because my religion allowed me to do it. My religion made me do it.

This is a right no other citizen or government can assert. So the bill is so sweeping that this new defense will not only apply to religious institutions themselves but to companies and corporations as well.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I am very pleased to hear all of the speakers today say they are in support of the rule. This is a fair rule, and I urge all of my colleagues to do the same.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 245, I call up the bill (H.R. 1691) to protect religious liberty, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Pursuant to House Resolution 245, the bill is considered read for amendment.

The text of H.R. 1691 is as follows:

H.R. 1691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Religious Liberty Protection Act of 1999''.

SEC. 2. PROTECTION OF RELIGIOUS EXERCISE.

(a) GENERAL RULE.—Except as provided in subsection (b), a government shall not substantially burden a person's religious exercise—

(1) in a program or activity, operated by a government, that receives Federal financial assistance; or

(2) in any case in which the substantial burden on the person's religious exercise affects, or in which a removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes;

even if the burden results from a rule of general applicability.

(b) EXCEPTION.—A government may substantially burden a person's religious exercise if the government demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) REMEDIES OF THE UNITED STATES.—Nothing in this section shall be construed to authorize the United States to deny or withhold Federal financial assistance as a remedy for a violation of this Act. However, nothing in this subsection shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or the United States or any agency, officer, or employee thereof under other law, including section 4(d) of this Act, to institute or intervene in any action or proceeding.

SEC. 3. ENFORCEMENT OF CONSTITUTIONAL RIGHTS.

(a) PROCEDURE.—If a claimant produces prima facie evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of a provision of this Act enforcing that clause, the government shall bear the burden of persuasion on any element of the claim; however, the claimant shall bear the burden of persuasion on whether the challenged government practice, law, or regulation burdens or substantially burdens the claimant's exercise of religion.

(b) LAND USE REGULATION.—

(1) LIMITATION ON LAND USE REGULATION.—

(A) Where, in applying or implementing any land use regulation or exemption, or system of land use regulations or exemptions, a government has the authority to make individualized assessments of the proposed uses

to which real property would be put, the government may not impose a substantial burden on a person's religious exercise, unless the government demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

(B) No government shall impose or implement a land use regulation in a manner that does not treat religious assemblies or institutions on equal terms with nonreligious assemblies or institutions.

(C) No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.

(D) No government with zoning authority shall unreasonably exclude from the jurisdiction over which it has authority, or unreasonably limit within that jurisdiction, assemblies or institutions principally devoted to religious exercise.

(2) FULL FAITH AND CREDIT.—Adjudication of a claim of a violation of the Free Exercise Clause or this subsection in a non-Federal forum shall be entitled to full faith and credit in a Federal court only if the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(3) NONPREEMPTION.—Nothing in this subsection shall preempt State law that is equally or more protective of religious exercise.

SEC. 4. JUDICIAL RELIEF.

(a) CAUSE OF ACTION.—A person may assert a violation of this Act as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) ATTORNEYS' FEES.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended—

(1) by inserting ''the Religious Liberty Protection Act of 1998,'' after ''Religious Freedom Restoration Act of 1993,''; and

(2) by striking the comma that follows a comma.

(c) PRISONERS.—Any litigation under this Act in which the claimant is a prisoner shall be subject to the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act).

(d) AUTHORITY OF UNITED STATES TO ENFORCE THIS ACT.—The United States may sue for injunctive or declaratory relief to enforce compliance with this Act.

SEC. 5. RULES OF CONSTRUCTION.

(a) RELIGIOUS BELIEF UNAFFECTED.—Nothing in this Act shall be construed to authorize any government to burden any religious belief.

(b) RELIGIOUS EXERCISE NOT REGULATED.—Nothing in this Act shall create any basis for restricting or burdening religious exercise or for claims against a religious organization, including any religiously affiliated school or university, not acting under color of law.

(c) CLAIMS TO FUNDING UNAFFECTED.—Nothing in this Act shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this Act may require government to incur expenses in its own operations to avoid imposing a burden or a substantial burden on religious exercise.

(d) OTHER AUTHORITY TO IMPOSE CONDITIONS ON FUNDING UNAFFECTED.—Nothing in this Act shall—

(1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or

(2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this Act.

(e) GOVERNMENTAL DISCRETION IN ALLEVIATING BURDENS ON RELIGIOUS EXERCISE.—A government may avoid the preemptive force of any provision of this Act by changing the policy that results in the substantial burden on religious exercise, by retaining the policy and exempting the burdened religious exercise, by providing exemptions from the policy for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden.

(f) EFFECT ON OTHER LAW.—In a claim under section 2(a)(2) of this Act, proof that a substantial burden on a person's religious exercise, or removal of that burden, affects or would affect commerce, shall not establish any inference or presumption that Congress intends that any religious exercise is, or is not, subject to any other law.

(g) BROAD CONSTRUCTION.—This Act should be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by its terms and the Constitution.

(h) SEVERABILITY.—If any provision of this Act or of an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provision to any other person or circumstance shall not be affected.

SEC. 6. ESTABLISHMENT CLAUSE UNAFFECTED.

Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the first amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the ''Establishment Clause''). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act. As used in this section, the term ''granting'', used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

SEC. 7. AMENDMENTS TO RELIGIOUS FREEDOM RESTORATION ACT.

(a) DEFINITIONS.—Section 5 of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–2) is amended—

(1) in paragraph (1), by striking ''a State, or subdivision of a State'' and inserting ''a covered entity or a subdivision of such an entity'';

(2) in paragraph (2), by striking ''term'' and all that follows through ''includes'' and inserting ''term 'covered entity' means''; and

(3) in paragraph (4), by striking all after ''means,'' and inserting ''conduct that constitutes the exercise of religion under the first amendment to the Constitution; however, such conduct need not be compelled by, or central to, a system of religious belief; the use, building, or converting of real property for religious exercise shall itself be considered religious exercise of the person or entities that use or intend to use the property for religious exercise.''.

(b) CONFORMING AMENDMENT.—Section 6(a) of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–3(a)) is amended by striking ''and State''.

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term ''religious exercise'' means conduct that constitutes the exercise of religion under the first amendment to the Constitution; however, such conduct need not be compelled by, or central to, a system of religious belief; the use, building, or converting of real property for religious exercise shall itself be considered religious exercise of the person or entities that use or intend to use the property for religious exercise;

(2) the term ''Free Exercise Clause'' means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion and includes the application of that proscription under the 14th amendment to the Constitution;

(3) the term ''land use regulation'' means a law or decision by a government that limits or restricts a private person's uses or development of land, or of structures affixed to land, where the law or decision applies to one or more particular parcels of land or to land within one or more designated geographical zones, and where the private person has an ownership, leasehold, easement, servitude, or other property interest in the regulated land, or a contract or option to acquire such an interest;

(4) the term ''program or activity'' means a program or activity as defined in paragraph (1) or (2) of section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a);

(5) the term ''demonstrates'' means meets the burdens of going forward with the evidence and of persuasion; and

(6) the term ''government''—

(A) means—

(i) a State, county, municipality, or other governmental entity created under the authority of a State;

(ii) any branch, department, agency, instrumentality, subdivision, or official of an entity listed in clause (i); and

(iii) any other person acting under color of State law; and

(B) for the purposes of sections 3(a) and 5, includes the United States, a branch, department, agency, instrumentality or official of the United States, and any person acting under color of Federal law.

The SPEAKER pro tempore. The amendment printed in the bill is adopted.

The text of H.R. 1691, as amended, is as follows:

H.R. 1691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Religious Liberty Protection Act of 1999''.

SEC. 2. PROTECTION OF RELIGIOUS EXERCISE.

(a) GENERAL RULE.—Except as provided in subsection (b), a government shall not substantially burden a person's religious exercise—

(1) in a program or activity, operated by a government, that receives Federal financial assistance; or

(2) in any case in which the substantial burden on the person's religious exercise affects, or in which a removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes; even if the burden results from a rule of general applicability.

(b) EXCEPTION.—A government may substantially burden a person's religious exercise if the government demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) REMEDIES OF THE UNITED STATES.—Nothing in this section shall be construed to authorize the United States to deny or withhold Federal financial assistance as a remedy for a violation of this Act. However, nothing in this subsection shall be construed to deny, impair, or

otherwise affect any right or authority of the Attorney General or the United States or any agency, officer, or employee thereof under other law, including section 4(d) of this Act, to institute or intervene in any action or proceeding.

SEC. 3. ENFORCEMENT OF CONSTITUTIONAL RIGHTS.

(a) PROCEDURE.—If a claimant produces prima facie evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of a provision of this Act enforcing that clause, the government shall bear the burden of persuasion on any element of the claim; however, the claimant shall bear the burden of persuasion on whether the challenged government practice, law, or regulation burdens or substantially burdens the claimant's exercise of religion.

(b) LAND USE REGULATION.—

(1) LIMITATION ON LAND USE REGULATION.—

(A) Where, in applying or implementing any land use regulation or exemption, or system of land use regulations or exemptions, a government has the authority to make individualized assessments of the proposed uses to which real property would be put, the government may not impose a substantial burden on a person's religious exercise, unless the government demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

(B) No government shall impose or implement a land use regulation in a manner that does not treat religious assemblies or institutions on equal terms with nonreligious assemblies or institutions.

(C) No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.

(D) No government with zoning authority shall unreasonably exclude from the jurisdiction over which it has authority, or unreasonably limit within that jurisdiction, assemblies or institutions principally devoted to religious exercise.

(2) FULL FAITH AND CREDIT.—Adjudication of a claim of a violation of the Free Exercise Clause or this subsection in a non-Federal forum shall be entitled to full faith and credit in a Federal court only if the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(3) NONPREEMPTION.—Nothing in this subsection shall preempt State law that is equally or more protective of religious exercise.

SEC. 4. JUDICIAL RELIEF.

(a) CAUSE OF ACTION.—A person may assert a violation of this Act as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

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(c) PRISONERS.—Any litigation under this Act in which the claimant is a prisoner shall be subject to the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act).

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(c) CLAIMS TO FUNDING UNAFFECTED.—Nothing in this Act shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this Act may require government to incur expenses in its own operations to avoid imposing a burden or a substantial burden on religious exercise.

(d) OTHER AUTHORITY TO IMPOSE CONDITIONS ON FUNDING UNAFFECTED.—Nothing in this Act shall—

(1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or

(2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this Act.

(e) GOVERNMENTAL DISCRETION IN ALLEVIATING BURDENS ON RELIGIOUS EXERCISE.—A government may avoid the preemptive force of any provision of this Act by changing the policy that results in the substantial burden on religious exercise, by retaining the policy and exempting the burdened religious exercise, by providing exemptions from the policy for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden.

(f) EFFECT ON OTHER LAW.—In a claim under section 2(a)(2) of this Act, proof that a substantial burden on a person's religious exercise, or removal of that burden, affects or would affect commerce, shall not establish any inference or presumption that Congress intends that any religious exercise is, or is not, subject to any other law.

(g) BROAD CONSTRUCTION.—This Act should be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by its terms and the Constitution.

(h) SEVERABILITY.—If any provision of this Act or of an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provision to any other person or circumstance shall not be affected.

SEC. 6. ESTABLISHMENT CLAUSE UNAFFECTED.

Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the first amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the ''Establishment Clause''). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act. As used in this section, the term ''granting'', used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

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(1) in paragraph (1), by striking ''a State, or subdivision of a State'' and inserting ''a covered entity or a subdivision of such an entity'';

(2) in paragraph (2), by striking ''term'' and all that follows through ''includes'' and inserting ''term 'covered entity' means''; and

(3) in paragraph (4), by striking all after ''means,'' and inserting ''any exercise of religion, whether or not compelled by, or central to, a system of religious belief, and includes (A) the use, building, or conversion of real property by a person or entity intending that property for religious exercise; and (B) any conduct protected as exercise of religion under the first amendment to the Constitution.''.

(b) CONFORMING AMENDMENT.—Section 6(a) of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–3(a)) is amended by striking ''and State''.

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term ''religious exercise'' means any exercise of religion, whether or not compelled by, or central to, a system of religious belief, and includes (A) the use, building, or conversion of real property by a person or entity intending that property for religious exercise; and (B) any conduct protected as exercise of religion under the first amendment to the Constitution;

(2) the term ''Free Exercise Clause'' means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion and includes the application of that proscription under the 14th amendment to the Constitution;

(3) the term ''land use regulation'' means a law or decision by a government that limits or restricts a private person's uses or development of land, or of structures affixed to land, where the law or decision applies to one or more particular parcels of land or to land within one or more designated geographical zones, and where the private person has an ownership, leasehold, easement, servitude, or other property interest in the regulated land, or a contract or option to acquire such an interest;

(4) the term ''program or activity'' means a program or activity as defined in paragraph (1) or (2) of section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a);

(5) the term ''demonstrates'' means meets the burdens of going forward with the evidence and of persuasion; and

(6) the term ''government''—

(A) means—

(i) a State, county, municipality, or other governmental entity created under the authority of a State;

(ii) any branch, department, agency, instrumentality, subdivision, or official of an entity listed in clause (i); and

(iii) any other person acting under color of State law; and

(B) for the purposes of sections 3(a) and 5, includes the United States, a branch, department, agency, instrumentality or official of the United States, and any person acting under color of Federal law.

The SPEAKER pro tempore. After 1 hour of debate on the bill, as amended, it shall be in order to consider the further amendment printed in the CONGRESSIONAL RECORD if offered by the gentleman from Michigan (Mr. CONYERS) or his designee, which shall be considered read and debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Florida (Mr. CANADY) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. Canady).

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1691, the Religious Liberty Protection Act, is legislation designed to ensure that the free exercise of religion is not trampled on by the insensitive and heedless actions of government. It is supported by a broad coalition of more than 70 religious and civil rights groups, ranging from the Christian Coalition and Campus Crusade for Christ to the National Council

of Churches and People for the American Way.

This legislation has been introduced and is now being considered by the House because the Supreme Court has taken, as Professor Douglas Laycock has aptly described it, ''the cramped view that one has a right to believe a religion, and a right not to be discriminated against because of one's religion, but no right to practice one's religion.''

The purpose of this bill is to use the constitutional authority of the Congress to help ensure that people do have a right, respected by government at all levels, to practice their religion. The supporters of the bill recognize that the free exercise of religion has been a hallmark of the American system of constitutional government and that Congress has a responsibility to protect the free exercise of religion to the maximum extent practicable.

In considering the need for this legislation, it is important to understand that, at least in some respects, protection for religious liberty in America does remain strong. The Supreme Court has recognized that governmental actions which target religion for adverse treatment run afoul of the protections afforded by the first amendment of our Constitution.

As Justice Kennedy, writing in 1993 for the Court in the City of Hialeah case, stated: ''Legislators may not devise mechanisms, overt or disguised, designed to persecute or oppress a religion or its practices.'' Protection against such religious persecution or oppression clearly is a core purpose of the first amendment proscription of laws prohibiting the free exercise of religion.

But we are here today because in another important respect the religious practice of Americans have been denied protection by the Supreme Court of the United States. Let it be clearly understood that we are not here to change the scope of the protections afforded by the free exercise provision of the first amendment. That is not the purpose of the Religious Liberty Protection Act.

Instead, the purpose of this legislation is to use the recognized powers of the Congress under the Constitution to fill a gap in the protections available to people of faith in America who, in fact, face substantial burdens imposed by government on their religious practices.

We do not seek to alter the protections the Supreme Court has determined to be required by the first amendment but to provide separate and additional protections.

Mr. Speaker, I will not now rehearse the detailed history of the judicial and legislative actions that have brought us to this day, but a brief word about that background is necessary to put today's debate in proper context.

In 1990, the Supreme Court in Employment Division v. Smith held that governmental actions under neutral laws of general applicability, which is laws that do not target religion for adverse treatment, are not ordinarily subject to challenge under the free exercise clause, even if they result in substantial burdens on religious practice.

Prior to the Smith decision, the Court had for many years recognized, as the Court said in 1972 in Wisconsin v. Yoder, that a ''regulation neutral on its face may, in its application, nonetheless offend the constitutional requirement for government neutrality if it unduly burdens the free exercise of religion.''

Yoder was a case that dealt with the adverse impact of a compulsory school attendance law on the religious practices of the Amish. It did not involve circumstances in which government had targeted religion for adverse treatment.

In Yoder, the Court explained that ''the essence of all that has been said and written on the subject is that only those interests of the highest order and those not otherwise served can overbalance legitimate claims to a free exercise of religion.''

The shorthand description of the standard applied in Yoder and similar cases is the compelling interest/least restrictive means test.

In response to widespread public concern regarding the impact of the Smith decision, the Congress in 1993 passed the Religious Freedom Restoration Act, frequently referred to as RFRA. This legislation sought to require application of the compelling interest/least restrictive means test to governmental actions that substantially burden religious exercise.

RFRA was based in part on the power of Congress under section 5 of the 14th amendment to enforce, by appropriate legislation, the provisions of the 14th amendment with respect to the States. The provisions of the first amendment are applied to the States by virtue of the 14th amendment.

□ 1145

The Supreme Court in 1997 in the City of Boerne versus Flores case held that Congress had gone beyond its proper powers under Section 5 of the 14th Amendment in enacting RFRA.

The Religious Liberty Protection Act, which is before the House today, approaches the issue of protecting free exercise in a way that will not be subject to the same challenge that succeeded in the Boerne case.

The heart of the bill, which is now before the House, is in Section 2, where the general rule is established that government may not substantially burden a person's religious exercise even if the burden results from a rule of general applicability, unless the government demonstrates that application of the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. As I have noted, the same test was adopted by Congress in the Religious Freedom Restoration Act, and a similar compelling interest test was applied by the Supreme Court for many years until it was abandoned by the court in 1990.

As set forth in Section 2, this general rule is applicable in two distinct contexts. First, it applies where a person's religious exercise is burdened ''in a program or activity operated by the government that receives Federal financial assistance.'' This provision closely tracks title VI of the Civil Rights Act of 1964, which prohibits discrimination on the ground of race, color, or national origin under ''any program or activity receiving Federal financial assistance.''

Second, the general rule under Section 2 is applicable where the burden on a person's religious exercise affects interstate commerce, or where the removal of the burden would affect interstate commerce. As with the provision on Federal financial assistance, this provision follows in the tradition of the civil rights laws. It uses the commerce power to protect the civil right of religious exercise as the Civil Rights Act of 1964 uses the commerce power to protect against discrimination in employment and public accommodations.

The provisions of the bill requiring application of the compelling interest/least restrictive means test are based on the conviction that government should accommodate the religious exercise of individuals and groups unless there are compelling reasons not to do so.

Application of this test will not mean that a religious claimant will necessarily win against the government. And that is a very important point to understand. Indeed, in a great many cases the government will be able to establish that it has acted on the basis of a compelling interest using the least restrictive means, and thus justify the burden it has imposed on the free exercise of religion.

Under the test provided for in the bill, however, the religious claimant will not automatically lose because the burden on the free exercise of religion is imposed by a neutral law of general applicability. The mere absence of an intention to persecute the religious claimant will not be sufficient to justify the governmental action.

Section 3 of the bill contains additional safeguards for religious exercise. The provisions in Section 3 are remedial measures designed to prevent the violation of the Free Exercise Clause of the Constitution as that provision of the Constitution has been interpreted by the Supreme Court. In this Section, Congress acts within the scope of the enforcement power under Section 5 of the 14th Amendment as interpreted by the Supreme Court.

Subsection (a) of Section 3 provides that once a claimant makes a prima facie case of a free exercise violation and shows a substantial burden, the burden of persuasion will shift to the government.

Subsection (b) establishes certain limitations on land-use regulations. These provisions are necessary to effectively remedy the pervasive pattern, a

pattern well documented in the hearings of the Subcommittee on the Constitution of the Committee on the Judiciary, of discriminatory and abusive treatment suffered by religious individuals and organizations in the land-use context.

These limitations include a provision requiring application of the compelling interest/least restrictive means test ''when the government has the authority to make individualized assessments of the proposed uses to which real property will be put.'' This provision follows the principle articulated by the Supreme Court in the Smith case that ''where the State has in place a system of individualized determinations or individual exemptions, it may not refuse to extend that system to cases of 'religious hardship' without compelling reason.''

Under Subsection (b), land-use regulations must treat religious assemblies or institutions on equal terms with nonreligious assemblies or institutions and must not ''discriminate against any assembly or institution on the basis of religion or religious denomination.'' In addition, a zoning authority may not ''unreasonably limit'' or ''unreasonably exclude'' assemblies or institutions principally devoted to religious exercise.

I would like to make a comment about the impact of this bill on local land use. The impact of this bill on local land use, I believe, will be the same as the impact that was intended by the Religious Freedom Restoration Act. So there is no real difference between the purpose of this bill with respect to land use and the Religious Freedom Restoration Act, which the Congress passed with an overwhelming vote of support.

It is important to understand that we should not casually interfere with local land-use decisions, but I believe that where fundamental rights are at stake, the Federal Government does have an important role to play. And based on the record of abuse that we have seen in this particular context, I believe that the actions that we would take under this bill to protect the free exercise of religion in the local land-use context are very well justified.

I would point out that those particularly who are committed to using Federal power to protect property rights against infringement at the local land-use level should certainly be no less willing to use Federal power to protect against local actions which infringe on the free exercise of religion.

Finally, in summarizing the bill, let me point out that the bill amends the Religious Freedom Restoration Act of 1993 to conform with the holding of the Supreme Court in the Boerne case. This provision of the bill recognizes the legal reality that after Boerne the courts will apply RFRA solely to the Federal Government and not to the States.

Now, I have discussed the legal concepts involved in this legislation, but I should also mention some examples of the types of cases where the enforcement of neutral rules of general application may be challenged under the bill. We have heard some reference to such examples already, but let me cite to the Members of the House a catalogue of cases that Professor Michael McConnell has gathered. These are cases which were decided under RFRA before the Boerne decision.

While RFRA was on the books, successful claimants included a Washington, D.C. church whose practice of feeding a hot breakfast to homeless men and women reportedly violated zoning laws; a Jehovah's Witness who was denied employment for refusing to take a loyalty oath; the Catholic University of America, which was sued for gender discrimination by a canon-law professor denied tenure; a religious school resisting a requirement that it hire a teacher of a different religion; a Catholic prisoner who was refused permission to wear a crucifix; and a church that was required to disgorge tithes contributed by a congregant who later declared bankruptcy.

The same sorts of cases would be affected by this legislation.

Mr. Speaker, the goal of protecting the ability of Americans freely to practice their religion according to the dictates of conscience is deeply rooted in our experience as a people. James Madison wrote of his ''particular pleasure'' concerning support for ''the immunity of religion from civil jurisdiction in every case where it does not trespass on private rights or the public peace.''

As Professor McConnell has written: ''Accommodations of religion in the years up to the framing of the First Amendment were frequent and well-known. For the most part, the largely Protestant population of the States as of 1789 entertained few religious tenets in conflict with the civil law; but where there were conflicts, accommodations were a frequent solution.''

The best known example of accommodation from that period is the exemption from military conscription granted by the Continental Congress to members of the peace churches. In the midst of our great struggle for independence as a Nation, the Continental Congress passed a resolution to grant the exemption from conscription, observing that ''as there are some people, who, from religious principles, cannot bear arms in any case, this Congress intends no violence to their consciences.''

The purpose of avoiding governmental action that does violence to the consciences of individuals is based on the understanding that there are claims on the individual which are prior to the claims of government.

This understanding finds expression in Madison's Memorial and Remonstrance Against Religious Assessments. Madison there wrote: ''It is the duty of every man to render to the Creator such homage, and such only, as he believes to be acceptable to him. This duty is precedent in order of time and degree of obligation, to the claims of civil society. Every man who becomes a member of any particular Civil Society, must do it with a saving of his allegiance to the Universal Sovereign.''

In the Christian tradition, the principle of prior allegiance is eloquently summed up in the words recorded in the Book of Acts of Peter and the other apostles who, when ordered to cease their preaching, responded by saying, ''We must obey God rather than men.''

A government based on the idea of liberty must not turn a deaf ear to such claims of conscience. The government of a people who love freedom must not heedlessly enforce requirements that do violence to the consciences of those who seek only to ''render to the Creator such homage'' as they believe to be acceptable to him. So long as they do ''not trespass on private rights or the public peace,'' Americans should be free to practice their religion without interference from the heavy hand of government.

That is the sole purpose of the Religious Liberty Protection Act. Let this House today show that we respect the rights of conscience and honor the principles of liberty, just as the Continental Congress did more than two centuries ago. I urge the Members of the House to support this bill, to reject the substitute amendment which would weaken the bill, and move forward with the goal of protecting religious liberty for all Americans.

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

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. NADLER), who has worked very diligently on this measure.

Mr. NADLER. Mr. Speaker, the bill we have before us today is a good and important bill, and I worked with the gentleman from Florida (Mr. CANADY) and others prior to its original introduction.

I want to associate myself with the remarks of the gentleman from Florida, and I agree with every word he said about the necessity for this bill and about its drafting. Unfortunately, this bill needs to be amended to ensure that while it acts as a shield to protect the fundamental religious rights of all Americans, as it is intended to do, it cannot also be used as a sword to do violence to the rights of others.

I will be offering an amendment in the nature of a substitute later today which will consist of the exact language of this bill but will also add a provision that would ensure that the appropriate balance between competing rights is struck.

With that change, I would hope that every Member of this House would support this important legislation. And I hope that if my amendment is adopted, my colleagues will do so. Without the amendment, unfortunately, the bill carries with it a fatal flaw threatening

to undermine existing civil rights protections. And I would urge my colleagues in that case to vote against the bill in order to increase the odds that the bill will be properly amended either in this House or in the Senate.

This is a very difficult stand for me to take. As many of my colleagues know, I worked very hard for passage of the original Religious Freedom Restoration Act, or RFRA, in 1993. Since the Supreme Court decision declaring RFRA unconstitutional, I have worked hard to undo the damage the Supreme Court has repeatedly inflicted on our first freedom.

Corrective legislation of this sort has been, since the Supreme Court's infamous decision in Employment Division versus Smith 9 years ago, one of my top priorities. So I want my colleagues to know it is with great sorrow I contemplate the possibility that I might have to vote against the legislation which addresses a problem that is very dear to my heart.

Religious freedom is in peril because of the rulings set down by the court in Smith. Under that rule, facially neutral, generally applicable laws, having the incidental effect of burdening religion, are no longer deemed violations of the First Amendment.

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This is unacceptable.

The Committee on the Judiciary, in its hearings on this legislation, received more than ample evidence that religion has suffered under the court's new rule and that, by following the indication of Justice Scalia for the political branches to deal with conflicts between law and faith, religious liberty has not fared very well at all.

This bill attempts to restore the protection of free exercise of religion which the Supreme Court has deprived us, but it does so at the cost of creating a real threat to the endorsement of State and local civil rights laws prohibiting discrimination on the basis of gender, marital status, disability, sexual orientation, having or not having children, or any other innate characteristic.

The bill as drafted would enable the CEO of a large corporation to say, my religion prohibits me from letting my corporation hire a divorced person or a disabled person or a mother who should be at home with her children and not at work or a gay or lesbian person and my religion prohibits me from letting my hotel rent a room to any such people. And nevermind the States' civil rights laws that prohibit that kind of discrimination.

If this bill passes in its current form, many courts will say that the State does not have a compelling interest in enforcing their laws against these kinds of discrimination and that discrimination will go on despite the laws because of this bill.

It is not right, Mr. Speaker, to abrogate the civil rights of many Americans in order to protect the religious liberty of other Americans; and it is not necessary to do so.

Thankfully, we do not face such a stark choice between religious liberty and civil rights. We can protect the religious liberty of all Americans without threatening the civil rights of any Americans. And that is what my amendment in the nature of a substitute will do.

So I will urge my colleagues to support the Nadler civil rights substitute, which I will describe later when I introduce it in greater detail, and, if it is adopted, to support what will then be an excellent and very important bill.

But if the amendment is not adopted, I will unhappily urge my colleagues to vote against the bill in its current form in order to increase the likelihood that the bill will be properly amended either in the House or in the Senate.

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

Mr. NADLER. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I merely wanted to commend the gentleman on his statement. It is a very courageous statement, and it is also a very well thought out statement from a constitutional point of view. I thank him very much for his contribution.

Mr. NADLER. Mr. Speaker, reclaiming my time, I appreciate the comments of the distinguished ranking member of the committee.

Mr. Speaker, I will address this issue further when we get to the substitute.

At this time, let me simply reiterate, the bill, except for its effect on civil rights laws, its potential effect, is a necessary and important bill. I hope we can amend it to get rid of this one but, unfortunately, fatal flaw so that we can really protect the rights of the religious liberties of all Americans without threatening the civil rights of any Americans.

Mr. CANADY of Florida. Mr. Speaker, I yield 3½ minutes to the gentleman from Arkansas (Mr. HUTCHINSON), a member of the Committee on the Judiciary.

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

I want to first respond to the gentleman from New York (Mr. NADLER), who has done an outstanding job of raising concerns about this bill. But this bill has been heard in subcommittee and in full committee, and those concerns have been addressed by the constitutional scholars, and I believe that it is not going to be the problems that have been addressed and expressed by the gentleman from New York.

This bill has broad bipartisan support, and I think that that is important as we move through this process.

I want to congratulate the chairman of the Subcommittee on the Constitution, the gentleman from Florida (Mr. CANADY), who has done such an outstanding job in studying and providing leadership on this issue. He certainly has earned the justified expression in this Congress that he is a constitutional scholar.

If we look at the history as to how we got here today, Congress enacted the Religious Freedom Restoration Act in 1993 to enforce the constitutional guarantees of free exercise of religion.

The Act codified a balancing test that had been applied by the court in 1990. Under this test, the government could restrict a person's free exercise of religion only if it demonstrated this amount of action is necessary to further a compelling governmental interest and it is the least restrictive means of achieving that governmental interest.

Unfortunately, on June 25 of 1997, in the Burn decision, the Supreme Court struck down the law as it applied to the State but left open the opportunity for Congress to accomplish the same protections but in a different way.

For the last 2 years, the Committee on the Judiciary Subcommittee on the Constitution has been setting legislative record holding hearings, listening to constitutional scholars, and we learned clearly that the law is necessary to protect the religious freedoms promised by the Constitution.

The legislation before us today strikes a good balance between providing much-needed protection while not exceeding the limitations on Federal power set forth in the Constitution.

The development of this legislation is an example of how legislation should be developed in Congress. We pass legislation. The Supreme Court addresses it. We come back. We try to do it and answer the concerns of the Supreme Court. We hold the hearings. We listen to the constitutional scholars. It has been done in the right way under the Constitution, the right legislative process. And we have learned why it is necessary.

It is necessary to make sure that a small church is able to continue its ministry to the homeless. It is necessary to make sure that home churches may continue to meet. It is necessary to make sure that prisoners are able to participate in Holy Communion. It is necessary to make sure that people of faith are not discriminated against in government employment. It is necessary to make sure that localities do not limit the number of students who may attend a religious school. It is necessary to make sure that Jewish boys are not prohibited from wearing yarmulkes at school. And it is necessary to make sure that communications between clergy and church members are protected.

My constituents feel strongly about this legislation, and I am pleased to be able to represent them today in support of the Religious Liberty Protection Act. I urge my colleagues to support this bill, as well.

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

Mr. Speaker, we are confronted with a very unusual situation here that, unless we put the legislation that we handled in 1993, which was passed by a voice vote, and of course many Members now present were not in the Congress nor on the Committee on the Judiciary at that time, into perspective, we may miss what is attempted to be done here.

The court rendered part of that law invalid. They rendered the part that deals with State and local civil rights laws invalid, that it did not apply to them.

What this measure is doing is coming back and getting the other part of it. And so, this is part of a one-two punch in which we are now doing something incredible if we look at it in the broader context.

We have already put restrictions on Federal civil rights laws as a result of the 1993 case, and now we are coming back to get the part that escaped the court's criticism. That is why the leading civil rights litigation organization in the United States, the NAACP Legal Defense and Educational Fund, has, as of yesterday, sent me a strong letter explaining why they cannot support this measure.

In addition, the American Civil Liberties Union, probably the second-most active litigating organization, has also indicated their strong reservations about this measure in its present form.

I would just give my colleagues a part of the reasoning of Director Counsel General Elaine Jones of LDF's letter to me that indicates why they urged Members not to succumb to this bill, as enticing as it may be, without some correction.

Defendants in discrimination cases brought under State or local fair housing, employment laws may seek to avoid liability by claiming protection under the Religious Liberty Protection Act. This would require individuals proceeding under such State and local antidiscrimination laws to prove that the law they wish to utilize is a least restrictive means of furthering a compelling governmental interest. This requirement would significantly increase the litigation time and expense of pursuing even ordinary antidiscrimination actions and as a result could even preclude some plaintiffs from pursuing their claims.

And so, we are now being asked to submit to part two of the original law that limits the Federal civil rights jurisdiction and now we have come back in this rather clever and innocent-sounding defense of religious liberties to now put the hindrance, the binders, on local and State civil rights laws.

Although I am committed to preserving religious freedom in this nation, I cannot support the Religious Liberty Protection Act as it is presently drafted.

My principal concern is that the legislation creates a brand new right for so-called ''religious practitioners'' and no other group or government enjoys—the right to discriminate. The right is so sweeping it will apply not only to religious institutions, but to large corporations.

I know that the bill's supporters say we should not worry about race and gender discrimination, because those interests have previously been found by the courts to be protected under the so-called ''compelling interest test set forth in the bill. Forgive me for being a little bit skeptical of this claim, particularly given the current conservative makeup of so many courts.

Even if the supporters' predictions prove true, civil rights plaintiffs will be subject to vastly enhanced litigation costs. We have enough barriers to civil rights suits without adding these new obstacles. This is why the NAACP Legal Defense and Education Fund is so strongly opposed to the bill.

Buyt it is beyond race and gender that the most significant civil rights concerns exist. This is because anti-discrimination laws based on sexual orientation, marital status, and disability have not been found by the courts to be based on a ''compelling'' government interest.

This means that under the bill, businesses will be free to discriminate against gay and lesbian employees, and large landlords will be able to justify their refusal to rent to single parents or gays and lesbians. In my view, we have fought too hard in the civil rights arena over the years to give back these gains.

I am also concerned that the bill raises serious constitutional problems. Among the many problems are the bill's tenuous relationship to Congress' interstate commerce and spending power authority, and its micro management of the federal judiciary and the state and local authorities. Given the recent trend of Supreme Court decisions on commerce, federalism and separation of powers, it is difficult to see this bill passing constitutional muster. Unfortunately, when the bill was struck down, it will serve as yet another precedent blocking Congress' path to protecting other civil rights which have a far stronger tie to our commerce and spending powers. In other words, we are sending the Court the weakest possible bill from a constitutional perspective and are inviting an adverse precedent.

I seriously question whether another federal law which is so antagonistic towards civil rights holds the key to protecting religious liberty in this country. This country has more religion and a greater variety of religious expression than any nation on earth. We have done so by maintaining the delicate balance between the First Amendment's religious liberty clause and its establishment clause, as interpreted by an independent judiciary.

It is doubtful the ''Religious Liberty Protection Act'' can improve on the scheme for protecting religious liberty designed by our founding fathers. I urge a ''no'' vote.

NAACP LEGAL DEFENSE,
AND EDUCATION FUND, INC,
Washington, DC, July 14, 1999.

Congressman JOHN CONYERS, Jr.,
Rayburn Office Building,
Washington, DC.

DEAR CONGRESSMAN CONYERS: The NAACP Legal Defense and Educational Fund, Inc. (''LDF''), urges you to oppose final passage of H.R. 1691, The Religious Liberty Protection Act of 1999 (''RLPA''). LDF litigates civil rights cases throughout the country on behalf of African Americans and other minorities in an effort to preserve equity, fairness and justice in educaiton, employment, housing, health care, environment, criminal justice, and voting rights. RLPA poses a potential threat to this type of litigation as RLPA may be used in a manner to limit African Americans and other minorities' rights to seek protection from discrimination under state and local antidiscrimination laws.

Defendants in discrimination cases brought under state or local fair housing, employment, etc., laws may seek to avoid liability by claiming protection udner RLPA. This would require individuals and groups proceeding under such state and local antidiscrimination laws to prove that the law they wish to utilize is a least restrictive means of furthering a compelling governmental interest. This requirement would significantly increase the litigation time and expense of pursuing even workday antidiscrimination actions and as a result could hinder or preclude some plaintiffs from pursuing their claims.

Even if the courts ultimately rule, as they should, that the various state and local antidiscrimination statutes are least restrictive means to further compelling governmental interests, the uncertainty of whether statutes will withstand a RLPA defense may dissuade plaintiffs from seeking redress under antidiscrimination statutes. Of course, if any court were to determine that a particular antidiscrimination statute were not a least restrictive means of furthering a compelling governmental interest, a successful RLPA defense would completely bar a plaintiff from proceeding under that statute. In either event, RLPA will create an additional burden for plaintiffs attempting to vindicate their civil rights.

For these reasons, LDF asks that you oppose RLPA, which may be used as a mechanism to limit African Americans and other minorities from proceeding under the state and local laws that prohibit discrimination in a wide range of areas.

Sincerely,

ELAINE R. JONES,
Director-Counsel.
REED COLFAX,
Assistant Counsel.

EXAMPLES OF UNINTENDED AND ADVERSE CONSEQUENCES FROM ENACTMENT OF H.R. 1691, THE ''RELIGIOUS LIBERTY PROTECTION ACT''

1. *Knives in schools.* Pursuant to its policy prohibiting the possession of knives on school property, the school district forbade Sikh elementary school children to wear kirpans—seven-inch, ceremonial knives that are required by their religion. Relying on the ''Religious Freedom Restoration Act,'' the Sikhs filed suit and moved for a preliminary injunction barring the district from applying its no-knives policy to ban the possession of kirpans at school. The court required the school district to permit the children to wear the knives if the knives were basted in their scabbards. See Cheema v. Thompson, 36F.3d 1102 (9th Cir. 1994).

2. *Sexual abuse.* In Arizona, a Warlock recently defended his alleged sexual abuse of a 13-year-old girl as part of the Wiccan religion. The open question is what is the least restrictive means of dealing with religious conduct that results in sexual abuse or statutory rape. Although the state may have a compelling interest in preventing sexual abuse or statutory rape, conviction and incarceration may not be the least restrictive means of dealing with such individuals.

3. *Refusal to pay child support.* A member of the Northeast Kingdom Community Church—which requires members to eschew all their personal possessions and work for the benefit of the Community and forbids members to support estranged spouses or children who live outside the community—was found in contempt of court for failure to comply with an order to pay child support.

He alleged that both the finding of contempt and the underlying support order violated his religious rights. The court vacated the judgment of contempt and remanded the case for a hearing as to the least restrictive means to enforce the defendant's support obligation. See Hunt v. Hunt, 162 Vt. 423 (1994).

4. *Faith healing resulting in the death of a child.* The son of a believer in the Christian Science Religion died at age 11 from juvenile-onset diabetes following three days of Christian Science care. A medical professional could have easily diagnosed the child's diabetes from the various symptoms he displayed in the weeks and days leading up to his death (particularly breath with a fruity aroma). Although juvenile-onset diabetes is usually responsive to insulin, even up to within two hours of death, the Christian Science individuals who cared for the child during his last days failed to seek medical care for him—pursuant to a central tenet of the Christian Science religion. The mother argued that a wrongful death suit brought by the child's father was not the least restrictive means of serving the state's interest in the health of the child. Rather, the state could have required the mother to report the child's illness to the authorities when death seemed imminent. The court held that the constitutional right to the free exercise of religion does not extend to conduct that threatens a child's life. See Lundman v. McKown, 530 N.W.2d 807 (Minn. App. 1995).

5. *Refusal to cooperate with discovery request.* A wrongful death suit alleged that the Church of Scientology is responsible for the death of an individual who died of a blood clot in her left lung after spending 17 days in the care of church staffers. The church is attempting to block discovery by contending that releasing the decedent's files would violate the church's ''sacred religious belief'' that the files remain confidential and that they be retained by the church for use in a parishioner's future lives. The court ruled that the decedent's estate had the right to see her files. Upon the passage of the Florida religious freedom restoration act, the court is now reconsidering its previous ruling. See Thomas C. Tobin, Scientologists Fight to Keep Files Secret, St. Petersburg Times, Aug. 6, 1998, at 4B.

6. *Conjugal visits in prison.* A Roman Catholic argued that a prison regulation prohibiting condemned inmates from receiving conjugal visits violates his first amendment right to free exercise of religion. The court rejected this argument because the prisoner failed to show that the prison regulation prohibiting conjugal visits for condemned inmates is not rationally related to a valid penological interest. See Noguera v. Rowland, 940 F.2d 1535 (9th Cir. 1991). Under RFRA and RLRA, the prison would have to show that its policy regulating conjugal visits was the least restrictive means of achieving compelling penological interests.

7. *Jewelry in prison.* Wisconsin severely restricted the wearing of jewelry by jail and prison inmates. The prison regulation forbade the possession of ''items which because of shape or configuration are apt to cause a laceration if applied to the skin with force,'' and the state refuses to make an exception for religious jewelry, such as crucifixes, which (unless made of cloth) fall within the ban. Inmates brought a suit against the relevant officials to enjoin, as a violation of RFRA, the defendant's refusal to make such an exception. The court held that, because prison security is a compelling state interest, if particular types of religious jewelry (or religious jewelry of any type in the hands of prisoners reasonably believed prone to use it for purposes of weaponry, barter, or gang insignia), pose a genuine threat to prison security, the state can ban them. Second-guessing the prison authorities, the court ruled that the jewelry in that case could not be banned. See Sasnett v. Sullivan, 91 F.3d 1018 (7th Cir. 1996).

8. *Class action against prison's grooming policy.* Inmates confined by the State of South Carolina, including Muslims, Rastafarians, and Native Americans, filed a class action challenging a South Carolina grooming policy that required all male inmates to keep their hair short and their faces shaven. The inmates claimed that the Grooming Policy forced them to compromise their religious beliefs and practices, and therefore violated their rights guaranteed by the Free Exercise Clause of the First Amendment. Following invalidation of RFRA, the court held that the Grooming Policy is an eminently rational means of achieving the compelling governmental and prenological interests of maintaining order, discipline, and safety in prison and did not violate the inmates' free exercise rights. See Hines v. Taylor, 1998 U.S. App. LEXIS 13362 (4th Cir. 1998).

9. *Landmaking.* St. Bartholomew's Church owned a Community House in which the church conducted many of its religious and community outreach activities. New York's Landmarks Preservation Commission denied the Church's requested to level the historic Community House and replace it with an office tower, which would both house the Church's religious activities and significantly enhance the Church's revenues through commercial rents. The Second Circuit found that whether the Church's religious activity was ''substantially burdened'' by New York's action turned on whether the Church ''had been denied the ability to practice [its] religion or coerced in the nature of those practices.'' the court found that New York's action did not punish any religious activity. See St. Bartholomew's Church v. City of New York, 914 F.2d 348 (2d Cir. 1990). Interestingly many of the cases file under RFRA turned on whether there was a ''substantial burden'' and determined that there was no such burden. In other words, RFRA (and RLPA) open the doors to the courthouse in many cases where the religion cannot meet the threshold inquiry.

10. *Polygamy and abuse.* A battered and bruised teenager fled from an isolated ranch that is used by a Utah polygamist sect as a reeducation camp for recalcitrant women and children. The husband of the girl was charged with incest and unlawful sexual conduct stemming from the sexual relations he allegedly had with her, his fifteenth wife. See Tom Kenwoorthy, Spotlight on Utah Polygamy; Teenager's Escape from Sect Revives Scrutiny of Practice. *The Washington Post,* Aug. 9, 1998, at A3. RLPA would offer the father a defense against statutory rape and polygamy.

11. *Refusal to provide social security numbers to DMV.* California residents contended that social security numbers are the ''mark of the beast'' in the biblical Book of Revelation and refused to give the DMV their numbers for applications of their driver's licensees. The court held that, because sincere religious convictions were involved, the DMV must use an alternate identification for those individuals. See John Dart, Judge Upholds Objections to Identifications, *L.A. Times.* October 25, 1997, at B1. In 1986, the Supreme Court rejected a similar request in Bowen v. Roy, 476 U.S. 693 (1986). RLPA would require a result much more in line with the California ruling than the Supreme Court's ruling.

12. *Historic preservation.* A Roman Church holds one service per week asked permission to demolish the entirety of the church,. which is located in the historic preservation district, for the purpose of expanding. When the City Council refused permission to demolish the church in its entirety, the church filed suit under the Religious Freedom Restoration Act, claiming that the city's historic preservation law could not be applied to a church. The Supreme Court held that RFRA is unconstitutional. Boerne v. Flores, 117 Ct. 2157 (1997). RLPA invites churches and religious individuals to thwart and ignore all land use laws, including historic and cultural preservation laws.

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

The SPEAKER pro tempore (Mr. BARRETT of Nebraska).

The Chair advises that the gentleman from Florida (Mr. CANADY) has 10 minutes remaining. The gentleman from Michigan (Mr. CONYERS) has 20 minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DOOLITTLE).

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

Mr. DOOLITTLE. Mr. Speaker, I believe that the present Smith standard gravely threatens as a practical matter the mission of churches at their most fundamental level, whether it is with regard to proselytizing or to the erection of houses of worship within communities.

I commend the gentleman from Florida (Mr. CANADY) for drafting this bill, which has not been easy to do. I think he has crafted a piece of legislation which we should all support.

The Religious Liberty Protection Act addresses the serious situation caused by that ''Employment Division v. Smith'' decision by restoring the general rule that State or local officials may not burden a religious exercise without demonstrating a compelling governmental interest.

The legislation before us protects religious institutions by giving them their day in court if they can show that their religious freedom has suffered at the hands of a State or local government.

There is a long list of cases in which the religion freedom of Americans has been, in my opinion, unconstitutionally abridged since the 1990 Smith decision. Many of these infringements touch core religious teachings and beliefs.

Let me just briefly cite three examples. As a result of these so-called neutral laws of general applicability, a Catholic hospital has been denied State accreditation based on its refusal to instruct its residents on the performance of abortion in accordance with their strong religious objections.

In New York, a religious mission for the homeless operated by the late Mother Teresa's order has been shut down because it was located on the second floor of a building without an elevator, thus violating a local building code.

In Missouri, for example, a city there passed an ordinance prohibiting all door-to-door contacting and religious proselytizing on certain days of the week and indeed severely limiting the

hours of such contact on the remaining days.

These are just a few of the numerous examples of how religious freedom has been and continues to be infringed across the country.

Mr. Speaker, religious liberty is a fundamental right of all Americans and must not be trampled on by insensitive bureaucracy or bad policy. Having only to show a rational basis for such policy is no protection at all.

These incidents are increasing, and that is why we need to adopt the measure before us today, which will stay the hand of government from heedlessly enacting laws that substantially burden the free exercise of religion.

I urge my colleagues, Mr. Speaker, to join me in supporting this much-needed legislation.

Mr. CONYERS. Mr. Speaker, I yield 6 minutes to the gentleman from North Carolina (Mr. WATT). I believe he is the ranking member on the subcommittee.

Mr. WATT of North Carolina. Mr. Speaker, I thank my colleague for yielding me the time.

Mr. Speaker, I want to start by complimenting all the parties to this debate and on both sides.

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We have been at this for a good while in the subcommittee, in the full committee and now on the floor. While I rise in opposition to this bill, I would note that many of my colleagues of all political persuasions and many of my friends of all political persuasions are supporting this bill which should give Members and the public some indication of how difficult an issue this is. My opposition to the bill is based on several different factors.

First of all, I believe this bill is of uncertain constitutionality. The earlier religious protection law that the Supreme Court struck down as having constitutional problems is addressed in this bill by tying this particular bill to the commerce clause. In effect, it gives us the jurisdiction to do what we are doing under this bill by virtue of a connection to the commerce clause. The problem with that is that it seems to me that that benefits larger, more established religions who tend to operate in interstate commerce at the expense of more localized private religious groups who tend to not operate in interstate commerce. The irony of this is that many of the people who are advocating that the commerce clause should cover this kind of activity and action are the very same people that are saying that the Federal Government should stay out of a number of different things and that the commerce clause does not cover these things and give the Federal courts and the Federal Government jurisdiction over these matters. I think on the commerce clause issue, while it is an ingenious way to bootstrap our way into hoping that the Supreme Court will not strike this down, I think it has its limitations and problems.

Second, this bill is of uncertain interaction with other civil rights bills and civil rights laws. I am sure that people are going to be advocating on both sides of this, either that it overrules civil rights laws or that it does not overrule civil rights laws. The truth of the matter is that we do not know. But I am personally and on behalf of my constituents not prepared to take a gamble with this. I do not think we can simply pass a law that could be interpreted to place religion over race or religion over other civil rights and give religion a more important place in our jurisprudence than we give to other civil rights laws. I simply do not believe we can do that. I think the gentleman from New York's amendment would address that, but I have not seen any inclination yet on the part of the supporters of this bill to be supportive of the gentleman from New York's amendment. I want to come back to that briefly at the end of my discussions.

The third reason that I have concerns about this bill is that it will give the Federal Government substantially more control and involvement in local zoning and land use decisions. This is something that we have historically reserved to local and State governments. Yet many of the very people who have said that this is something that is sacrosanct, that should be decided at the local levels, the advocates of States rights, so to speak, are some of the people who are advocating that we now put a national standard in this bill having to do with land use decisions. I think that is a problem.

Finally, I want to address the people who continue to say, especially like my good friend the gentleman from Texas (Mr. EDWARDS) who says, ''We're going to fix the concerns that we have about this bill, about civil rights and other civil rights issues, in conference,'' that this consideration of this bill has been going on for a long, long time. There has been no inclination to address that problem. That is why the gentleman from New York, who was one of the original cosponsors of this bill, is now on the floor of the United States House offering an amendment to address the problem. That problem needs to be addressed now. Otherwise, this bill should not warrant our support.

I encourage my colleagues to oppose this bill in its current form.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute. I want to underscore a point made by the gentleman from North Carolina with reference to the commerce clause, because that has not been brought up and discussed in the fullness that he has done it. The bill is using now the commerce clause to seek to have a cover of constitutionality to protect religious liberty.

In order to invoke that clause, it seems to me that we will now have to equate religion with interstate commercial activity, something I am not prepared to do this afternoon. And if we equate religion with interstate commerce, does it not open the door to further regulation of religion through the commerce power? And there I think these problems that the gentleman from North Carolina does not want to take a chance on finding out what a conservative court is going to do kicks in here and it makes this reference between a bill that was held partially unconstitutional and an attempt to remedy the other half of it through this measure that is before us now.

Mr. Speaker, I am pleased to yield 3½ minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the ranking member for yielding me this time.

There are a number of concerns that are raised by this bill. I want to focus on what is central to me, and I am hoping that the House will take some direction here from Governor Bush of Texas. He appears to be growing in popularity on the other side, and I am sorry they are rejecting his wisdom in this one case.

When a bill like this was presented in Texas, an amendment was offered which exempted all legislation aimed at protecting the civil rights of individuals. What the law in Texas says is, yes, we will protect people's rights to exercise their religion, but where we have as a legislature and a governor decided that certain rights of individuals and groups are important and that certain classes of people should be protected against discrimination, we will not allow you to use religion as a license for this discrimination.

Now, that was signed into law by Governor George Bush, and I thought it made a lot of sense. We are not trying to go as far as Governor Bush. The gentleman from New York has a very thoughtful amendment which allows people to invoke religion as a means of ignoring civil rights laws. It allows, in fact, people to use their religion as a license to discriminate in a number of cases that would not be allowed in Texas. I think that is a very reasonable accommodation the gentleman has offered. He has said you do not give it to corporations, et cetera. If the amendment offered by the gentleman from New York does not pass, what we will have is a law which will say, ''All you need do is invoke your religion and you can defeat many civil rights laws.''

Now, interestingly it says, ''Unless the courts find that that particular civil rights law protects a fundamental right.'' I am interested that people who describe themselves as conservative opponents of judicial activism want to so empower the judiciary, because what this bill will do absent the amendment by the gentleman from New York, is to say to the court, ''You now have the power to decide.'' There are civil rights laws at the State level. Various States have passed laws protecting different groups of people, based on religion, based on marital status, based on whether or not you have children, based on sexual orientation. We the

Congress will say to you the Federal courts, ''Pick and choose among those. You decide which of those will have to give way to this Federal statute and which do not,'' rather than have the Federal Government decide, or emulate Texas and say, ''In general the religious right will win unless it is an antidiscrimination law.''

And remember, under our constitutional system, we do not want to subject individuals to some kind of inquisition when they invoke religion. So people who wish to invoke religion, people who want to go to Federal court and say, ''Hey Federal judge, let me ignore this law that this State passed,'' under this law the Federal courts will be empowered to let people pick and choose and they simply will have to say, ''My religion doesn't allow it.'' We certainly do not want a situation where that religion is subjected to some kind of examination.

So what you will do is to tell the States that no matter what they may have decided through their own local democratic processes about protecting groups, we the Congress will empower Federal courts to pick and choose among them and say ''no'' to some and ''yes'' to others. I do not think that is appropriate.

While the amendment from the gentleman from New York, because he has been very accommodating in this, does not completely rule that possibility out, it substantially diminishes it and it is the one thing that will save this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, let me thank the ranking member and chairman of this committee. Let me also acknowledge the leadership and work of the gentleman from New York (Mr. NADLER) of some 10 or 12 years on this issue. I think that our presence here today should hopefully connote to those who may be listening, this is an enormously important debate, and as I was reminded when we debated the flag amendment, let us not have it break down in partisan discourse but recognize that there is probably no more important right amongst others, if you will, than the free exercise of religion. And the first amendment gives us that.

And so this legislation, Mr. Speaker, is in fact needed to provide protections that have been dangerously eroded by the Supreme Court in its 1990 Employment Division v. Smith decision. We have heard the Smith decision being mentioned quite frequently because it has been the one that has upset the apple cart in terms of recognizing the importance of individuals having the personal and private right of exercising their religion. Congress attempted to remedy this by enacting on a bipartisan basis the Religious Freedom Restoration Act which the court struck down in part in its 1997 City of Boerne v. Flores decision.

H.R. 1691, the Religious Liberty Protection Act, seeks to restore the application of strict scrutiny in those cases in which facially neutral, generally applicable laws have the incidental effect of substantially burdening the free exercise of religion. I believe that the government should not have the ability to substantially burden a right that is enshrined in constitutional premise unless it is able to demonstrate that it has used the least restrictive means of achieving a compelling State interest, such as Thomas v. Review Board.

I believe that this legislation is necessary because in the wake of the aformentioned Supreme Court decisions, religious groups in general and religious minorities in particular are no longer guaranteed the religious liberty protections of the Constitution and are more vulnerable to the danger of governmental restrictions on religious freedom.

□ 1230

There are numerous examples that we can find, for example, where it was partially struck down, of churches being ejected from certain neighborhoods, church soup kitchens and welfare programs being closed and prisoners having been denied basic rights to worship.

But, Mr. Speaker, I started out by saying this is an enormously important constitutional right. Why can we not have the compromise and collaboration and respect for the various interests that are here today not denying the right to the free exercise of religion but at the same time acknowledging that we do not want to deny the civil rights of those who are under-represented who may be most challenged, and I say this in the backdrop of the wonderfully positive legislative initiative of the State of Texas, my State, a legislative initiative proposed and fostered by State Representative Scott Hochberg of Texas and signed into law by Governor George Bush. That legislative initiative recognized generally the importance, the high importance, of the free exercise of religion, but at the same time it provided, if my colleagues will, the particular provision that recognized the civil rights of individuals, that they should not be pounced upon and they should not be denied because of the constitutional right of the free exercise of religion.

My question to my colleagues:

Can we do less in the United States Congress? Can we in fostering a bill that is to enhance rights not ensure that we protect the rights of others who simply want to ensure that they in a more vulnerable position not be denied civil rights?

I would hope that my colleagues will support the Nadler amendment from an individual who has made it very clear that he is one of the strongest proponents of the free exercise of religion, does not come to this floor in any way to attempt to undermine this legislative initiative but in keeping with the spirit of those in Texas and who I represent. My fear is that passing of this legislation without respecting the civil rights has some concerns that we should acknowledge. I hope my colleagues will see in their wisdom the importance of joining with the leadership of the Governor of the State of Texas, George Bush, on this issue and to provide for the civil rights of others as we move toward the complete free exercise of religion.

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

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Speaker, I rise today in support of H.R. 1691, the Religious Liberties Protection Act of 1999. This legislation was introduced by my friend, the gentleman from Florida (Mr. CANADY), and it is an important step in preserving the freedom that the Constitution affords religions in America.

A little over 10 years ago, 200 of our Nation's leaders from all sectors signed the Williamsburg Charter. It affirmed that, ''Religious liberty in a democracy is a right that may not be submitted to vote and depends on the outcome of no election. A society is only as just and as free as it is respectful of this right, especially toward the beliefs of the smallest minorities and the least popular religious communities.''

The provisions included in the Williamsburg Charter reflect our national commitment to respect and accommodate the philosophies, practices and needs of the many diverse religions in this Nation, even when doing so is inconvenient or annoying.

But the realization of these principles is not always simple. The growth of government on every level, combined with government's inherent tendency to over-regulate, requires occasional legislative clarification. Given the complexities, there is no practical way to measure whether anti-religious motivation plays a factor in such matters as cities' planning and zoning decisions.

In Senate hearings on this subject there was testimony that, ''Since the Smith decision, governments throughout the U.S. have run roughshod over religious conviction. In time, every religion in America will suffer. Must a Catholic church get permission from a landmarks commission before it can relocate its altar? Can Orthodox Jewish basketball players be excluded from inter-scholastic competition because their religious beliefs require them to wear yarmulkes? Are certain evangelical denominations going to be forced to ordain female ministers?''

I believe that a balance can be struck, but we do not have that balance today.

It is somewhat ironic that under current first amendment principles a city can totally zone out a church that desires to construct an edifice for its members and the surrounding community, but it cannot zone out of its community a sexually oriented adult bookstore.

Religious freedom should never depend upon the amount of religious sensitivity in a particular community or on the willingness of local governments to craft appropriate exemptions for religious practices. I urge my colleagues to support the Religious Liberties Protection Act with a yes vote.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Speaker, I reluctantly rise in opposition to this bill drafted by my good friend and colleague and classmate, the gentleman from Florida (Mr. CANADY).

The first amendment is quite clear. It says, Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. And yet, if we look at the words of the statute, it says, a government may substantially burden a person's religious exercise if the government demonstrates that application of the burden of the person is in furtherance of a compelling interest or is the least restrictive means of doing so.

So, the first thing we have here is Congress making a statement that is in direct contradiction to the firm mandatory words of the United States Constitution. That bothers me for several reasons. One of those is that the attempt to protect religious liberties under the Religious Liberty Protection Act hinges on the spending clause of the Constitution and also upon the commerce clause of the Constitution, and we thus ask ourselves this question:

If a religious liberty case comes up that is not hinged to the commerce clause or the spending clause, what protection do the people have? Is it pregnant with omissions, that the courts may end up saying the liberties set forth in the statutes simply do not supply to the people?

The third problem I have with it is the fact that Justice Thomas back in 1994 after the Smith decision wrote a dissent in a case coming out of Alaska where the Supreme Court denied certiorari, and he said this. He said:

> What bothers me about the Alaska case or the Alaskan statute, which is the equivalent of the statute we are trying to pass today, is that the asserted government interests, the asserted government compelling interests, are effusive. In other words, the decision of the Alaskan Supreme Court drains the word ''compelling'' of any meaning and seriously undermines the protection of the exercise of religion that Congress so emphatically mandated in RIFRA. In other words, the very liberties we are trying to ensure we can end up taking away.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I would like to address several questions: First, the question of is this bill constitutional. Obviously, legal scholars on this floor and elsewhere throughout the country may disagree, but for the RECORD I would like to read and then insert the full letter, a letter of July 14 to the Speaker of the House, the Honorable J. DENNIS HASTERT from Jon P. Jennings, Acting Assistant Attorney General. He says that, quote,

The Department of Justice has concluded that the Religious Liberty Protection Act, as currently drafted, is constitutional under governing Supreme Court precedence.

The letter in its entirety is as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, July 14, 1999.

Hon. J. DENNIS HASTERT,
Speaker, U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I am writing with respect to H.R. 1691, the Religious Liberty Protection Act of 1999 (''RLPA''), as reported by the House of Representatives Committee on the Judiciary. We understand that RLPA may be considered shortly by the House of Representatives. We also understand that some Members may be concerned about the constitutionality of the legislation. This letter is addressed solely to the question of RLPA's constitutionality. We understand that the Administration is planning to convey further views on the legislation, apart from the constitutional questions.

Over the past two years, the Department of Justice has worked diligently with supporters of RLPA to amend prior versions of the bill so as to address serious constitutional concerns. Moreover, we have reviewed carefully the testimony of several legal scholars who have questioned the constitutionality of the bill. We agree that RLPA raises important and difficult constitutional questions—particularly with respect to recent and evolving federalism doctrines—and that there may be ways to amend the bill further to make it even less susceptible to constitutional challenge. Nevertheless, the Department of Justice has concluded that RLPA as currently drafted is constitutional under governing Supreme Court precedents.

Thank you for the opportunity to present our views. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this report.

Sincerely,

JON P. JENNINGS,
Acting Assistant Attorney General.

The second question I would like to address, Mr. Speaker, is: Who are some of the people that support this bill, recognizing that good people of good-faith will be on both sides of this issue. Let me first read in a statement from the administration dated July 14, as well.

''The administration strongly supports H.R. 1691, the Religious Liberty Protection Act, which would protect the religious liberty of all Americans. RLPA would, in many cases, forbid State and local governments from imposing a substantial burden on the exercise of religion, unless they could demonstrate that imposition of such a burden is the least restrictive means of advancing a compelling governmental interest.''

For the RECORD let me mention some other religious groups, diverse religious groups, supporting this legislation:

The American Jewish Committee,
The American Jewish Congress,
The Anti Defamation League,
The Association of American Indian Affairs,
The Baptist Joint Committee on Public Affairs,
B'nai Brith,
The Christian Coalition,
The Christian Science Committee on Publication,
The Church of Jesus Christ of Latter Day Saints,
The Episcopal Church,
The Ethics and Religious Liberty Commission of the Southern Baptist Convention,
The Family Research Council,
The General Conference of Seventh Day Adventists,
Hadassah,
NAACP,
National Council of Churches of Christ,
Presbyterian Church U.S.A,
Religious Action Center of Reform Judaism,
United Church of Christ,
United Methodist Church,
The U.S. Catholic Conference,

as well as many other organizations.

I ask no one to vote for this because of anyone's endorsement. I just point out that this is a bill supported on a broad-based basis.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, July 14, 1999.

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies)

[H.R. 1691—Religious Liberty Protection Act of 1999 (Canady (R) Florida and 39 cosponsors)]

The Administration strongly supports H.R. 1691, the Religious Liberty Protection Act (RLPA), which would protect the religious liberty of all Americans. RLPA would, in many cases, forbid state and local governments from imposing a substantial burden on the exercise of religion, unless they could demonstrate that imposition of such a burden is the least restrictive means of advancing a compelling governmental interest. This statutory prohibition would, in the cases in which it applies, embody the test that was applied by the Supreme Court as a matter of Constitutional law prior to 1990 and that is applied now to the Federal Government under the Religious Freedom Restoration Act (RFRA). RLPA will, in large measure, restore the principles of RFRA, which was enacted with broad Congressional support in 1993. It is necessary for Congress to enact RLPA since the Supreme Court invalidated the application of RFRA to state and local governments RLPA is carefully crafted to address the Court's constitutional rulings. The Department of Justice has reviewed H.R. 1691 and has concluded that, while RLPA raises important and difficult Constitutional questions, nevertheless it is constitutional under governing Supreme Court precedents. The Administration looks forward to working with Congress to ensure that any remaining concerns about the bill, including clarification of civil rights protections, are addressed and that it can be enacted into law as quickly as possible.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I am very concerned that this legislation has the potential of establishing a dual track. Certainly none of us want to be in a position where government is discriminating against the free exercise of

religion, but, by the same token, as we have community after community across the country struggling to be able to maintain their liveability, to try and deal with issues of quality of life, to provide a broad exemption to a religious institution, to be able to violate the rules of the game that other people play by in terms of environmental protection, in terms of land use and transportation is ill advised. This is why we have a broad coalition of groups that deal with land use, with transportation, with the environment who are rising their voices in opposition led by the National Trust for Historic Preservation.

We have heard here that there are areas where somehow there is discrimination against churches and their exercise of building and development activities, but this legislation would provide a requirement that in all instances government that has the authority to make individualized assessment, the action requires the State or local government to demonstrate the reasons for the land use are compelling and that the regulation is the least restrictive means supplied to each affected individual furthering that interest.

This is something as a local official I can tell my colleagues the requirements economically, legally and practically to establish that burden unlike we would do for anybody else is unjustified and unnecessary. I find it frustrating that the Federal Government runs roughshod over local neighborhoods and communities where we have things like the local post office that does not obey local land use laws and zoning codes. To carve out another broad exemption under this act, that would have, I think, serious unintended consequences.

Regardless of the outcome of today's vote in this legislation, I hope there is a careful look at section 3(b)1(a) and people make sure that they assure that we are protecting the rights of our neighborhoods for liveability and environmental protection.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. BEREUTER) for the purpose of a colloquy.

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

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

I am an urban planner by training. I have prepared lots of zoning ordinances for municipalities and counties, a certified planner by the American Planning Association, and on my own initiative I wanted a clarification from the gentleman. I thank him for yielding for a colloquy, and I have two questions.

Will anything in the bill prevent local government from precluding religious uses in a particular category of zoning such as an industrial zone?

Mr. CANADY of Florida. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Not ordinarily. But it would under certain circumstances, such as if the exclusion from the zone does not leave reasonable opportunity to locate within the jurisdiction or if like uses are not precluded from the particular category of zoning or if the preclusion is based on the religious nature of the use. This question is governed by section 3(b)1(b), (c) and (d).

I would also say the communities that provide reasonable locations for churches have nothing to fear from this legislation, but sometimes exclusion from particular zones is in fact a device for excluding from the whole community. We have heard about cases where property was spot zoned industrial after the church bought it.

□ 1245

Some cities exclude churches from commercial zones, knowing that it is impractical to locate a church in a built-up residential zone. The intention and effect is to exclude all new churches. We believe that is not appropriate.

Mr. BEREUTER. I agree with the gentleman that the examples given are abuses of the local zoning law.

My second question will be this: Will anything in the bill prevent local government from requiring compliance with conditions authorized by statute for a conditional or special use permit for religious facilities or other traffic-generating uses in certain zoning categories?

Mr. CANADY of Florida. If the compliance requirement substantially burdens religious exercise and is not the least restrictive means of furthering the local government's compelling interest, then a religious facility would have a claim that could be successful.

This is governed by section 3(B)1)A). An example would be an orthodox Jewish temple forced to comply with parking space requirements. With the orthodox temple, no one drives a car in any case.

Another example is if the condition for a special use permit is that the use ''serve the general welfare,'' or such other vague standards that can be used to exclude whomever the board chooses to exclude.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for his colloquy. I think that is reassuring, particularly in light of the comments of the gentleman from Oregon.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is my pleasure to yield 1 minute to the distinguished gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I just have a few questions. I am very worried about this bill. Just 2 weeks ago when we had the gun debate on violence, this Congress passed, if Members can believe it, posting Ten Commandments, and this was our response to Columbine, post the Ten Commandments. It did not say which version of the Ten Commandments, the Catholic, Protestant, or Jewish version, it just said Ten Commandments.

This is really getting me nervous, this notion that we are going to give religions preference in their religious tenets over our own civil rights.

Let us make no mistake about it, the right wing of the Republican party is against gays and lesbians. They want to discriminate against people who are homosexuals. Let us just be right in front on what this debate is about.

So they feel that if one has in their religion a belief that gays and lesbians would be damned by God, then you should be able to discriminate against them. But what this also does is it discriminates against all kinds of other people.

Just imagine that fellow who killed all those people out in Chicago last week. He was part of this Church of the Creator. Is that kind of religion protected under this religious freedom? Is that going to take precedence over our civil rights in this country?

I think we are all children in the eyes of God, and no religion should practice hate or intolerance of any kind. That is why I am going to vote against this bill when it comes up for a vote.

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

Mr. Speaker, I want to respond briefly to the comments the gentleman just made. It is unfortunate that the gentleman has misconstrued the purpose of this bill.

This bill does not touch on the establishment clause issues that have from time to time divided the Members of this House. This is a bill that has broad bipartisan support. It has broad support in the religious community.

When we can bring a bill forward that has the support of both the Christian Coalition and People for the American Way, major Jewish organizations and the National Council of Churches, I think this is an opportunity for the House to stand up for principles that we can all agree to to protect religious liberty.

I would urge the Members of the House to do just that by adopting this bill.

Mr. UDALL of New Mexico. Mr. Speaker, today I rise in support of the Religious Liberty Protection Act.

Religious freedom is the foundation on which our nation was built. Every American, be they Catholic or Protestant, Jewish or Muslim, Buddhist, Sikh or of any other faith community, has the Constitutional right to practice their religious tradition without fear of government intervention or retribution.

Unfortunately, Mr. Speaker, as we've heard throughout this debate, too many people of faith in this country, particularly those in religious minorities, often find themselves facing rigid government policies that burden their religious practices.

This bill, Mr. Speaker, would prevent government restrictions against religious practices, unless there is a compelling government

interest, and that policy is the least restrictive method of achieving that interest.

It is an important step, Mr. Speaker, to protect and strengthen those religious liberties for which our forefathers sacrificed so much to give us.

Now I understand, Mr. Speaker, that there are those who are concerned that this legislation would allow for some to hide behind the cloak of religious freedom in order to legally discriminate against others.

Mr. Speaker, I too share this concern. There is the danger that this legislation might be construed by some courts to elevate religious claims above other civil rights.

While we can be reassured by some recent court rulings that show government has a compelling interest in preventing racial or gender discrimination, there are other groups that do not have this same type of Constitutional protection.

It is incumbent upon us, Mr. Speaker, to take all steps necessary to make sure that we do not permit religiously motivated conduct to ''trump'' other civil rights claims. We should take steps to strengthen the civil rights of all individuals, with special attention to those populations that are at particular risk of discrimination.

I am disappointed, Mr. Speaker, that the House failed to pass the amendment introduced by Mr. NADLER of New York. I believe that this amendment would have addressed the concerns that many have voiced.

I urge my colleagues, therefore, to support future measures in this body to protect the civil rights of those minority segments of our population that do not enjoy Constitutional protection.

And I urge our colleagues in the other body to further clarify and resolve these issues as the legislation moves through the Senate.

Mr. PACKARD. Mr. Speaker, I would like to express my support for H.R. 1691, the Religious Liberty Protection Act. The intent of this bill is to protect practices from unnecessary government interference.

Religious freedom is one of the most important freedoms in our Constitution. The framers placed the right to free worship as our first Constitutional right. As stated by the father of our Constitution, Thomas Jefferson, ''The constitutional freedom of religion is the most inalienable and sacred of all human rights.'' Despite this fact, over the past few decades, the Supreme Court has continued to weaken our right to practice faith freely.

The Religious Liberty Protection Act will reinforce our Constitutional right to practice individual faith by requiring judges to use strict scrutiny when reviewing a government burden on religious practices, unless it is to protect the health or safety of the public. This bill is simply common sense legislation. Protecting the freedom of religion should be one of the highest priorities for our nation and this Congress.

Mr. Speaker, I encourage my colleagues to support the Religious Liberty Protection Act.

Mr. HOSTETTLER. Mr. Speaker, I rise to oppose H.R. 1691.

I would like to say that I am pleased to be submitting these remarks, but I am not.

I know that the drafters and supporters of the Religious Liberty Protection Act (RLPA) share many of my beliefs about faith, government, and the Constitution, and it is not often that I find myself in disagreement with their views.

But on one major RLPA issue, my conscience convicts me that in trying to right what many perceive to be wrong, Congress today is taking a major constitutional step in a dangerous direction—a constitutional step that I cannot in good faith support.

It is a constitutional step that I believe may well undermine the protections for religious freedom under which Americans have prospered for over two hundred years.

Today, because of a disagreement with the Supreme Court of the United States, and in keeping in line with the myth of the Court's supremacy over the other branches of government, we are seeking to change the nature of our right to the free exercise of religion.

We are seeking to re-write our liberty.

Because the Supreme Court has boxed Congress in, Congress is choosing to fight for the moment, Congress is trying to find any basis, whatsoever, to strike a blow for religious liberty.

But we must not move in haste.

Such haste may lead to unintended consequences.

For as this legislation is drafted, one issue we are going to address, what is really being raised as an issue, is whether the constitutional right to the free exercise of religion will be a fundamental right protected by the First and Fourteenth Amendments, or merely an element of interstate commerce, which is not a right at all.

This is not insignificant.

By relegating religious liberty to Congress' power to regulate commerce, as the RLPA does, Congress may be opening the future to the end of liberty as we have been privileged to know it.

Yes, some are burdened by the Supreme Court's treatment of the free exercise clause and the Fourteenth Amendment.

I am not unsympathetic to believers who are suffering for their faith.

But we must also consider the future ramifications of our actions.

This future may well entail debates focused not on the fundamental right to the free exercise of religion, but on something that is not a right at all.

That something is Congress' simple power to, and I quote from the Constitution: ''regulate commerce with foreign nations, and among the several states, and with the Indian tribes.''

In form, the argument today is not new.

It is a form of the age-old question of whether the end justifies the means.

While one might struggle with whether the end justifies the means, we must not ignore that the end will always, in some manner, reflect the means.

This is especially true when we are determining the constitutional basis for our actions.

We must today pause and ask ourselves, will our children and grandchildren, even to the fourth generation, look back at this day and say: There was the beginning of the end. There was the day when Congress—though well intentioned—cheapened our liberties. There was the day when Congress ceded the moral and intellectual argument that there is a fundamental right, independent of incidental affects on commerce, independent of what a particular congress might define as commerce, a right which our founders' cherished so much that they set it forth separately in our Bill of Rights.

No, I do not relish being here today opposing my friends.

But what we are doing today is wrong and I cannot simply turn my head.

It does not matter that Congress has used the commerce clause in unprincipled ways in the past.

It does not matter that we have been unable to come to an agreement as to how to proceed in light of the Court's rulings.

Truth is truth.

The free exercise of religion is a right, not because of any possible connection to commerce, but because it is a right given by our Creator.

Our founders wisely sought to give special protection to these rights.

Today, I fear that we are ignoring this wisdom for merely short term, but by no means permanent, gratification.

I hope that my fears will not be realized.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). All time for general debate has expired.

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

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

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

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

Amendment in the nature of a substitute offered by Mr. NADLER:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Religious Liberty Protection Act of 1999''.

SEC. 2. PROTECTION OF RELIGIOUS EXERCISE.

(a) GENERAL RULE.—Except as provided in subsection (b), a government shall not substantially burden a person's religious exercise—

(1) in a program or activity, operated by a government, that receives Federal financial assistance; or

(2) in any case in which the substantial burden on the person's religious exercise affects, or in which a removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes;

even if the burden results from a rule of general applicability.

(b) EXCEPTION.—A government may substantially burden a person's religious exercise if the government demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) REMEDIES OF THE UNITED STATES.—Nothing in this section shall be construed to authorize the United States to deny or withhold Federal financial assistance as a remedy for a violation of this Act. However, nothing in this subsection shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or the United States or any agency, officer, or employee thereof under other law, including section 4(d) of this Act, to institute or intervene in any action or proceeding.

SEC. 3. ENFORCEMENT OF CONSTITUTIONAL RIGHTS.

(a) PROCEDURE.—If a claimant produces prima facie evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of a provision of this

Act enforcing that clause, the government shall bear the burden of persuasion on any element of the claim; however, the claimant shall bear the burden of persuasion on whether the challenged government practice, law, or regulation burdens or substantially burdens the claimant's exercise of religion.

(b) LAND USE REGULATION.—

(1) LIMITATION ON LAND USE REGULATION.—

(A) Where, in applying or implementing any land use regulation or exemption, or system of land use regulations or exemptions, a government has the authority to make individualized assessments of the proposed uses to which real property would be put, the government may not impose a substantial burden on a person's religious exercise, unless the government demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

(B) No government shall impose or implement a land use regulation in a manner that does not treat religious assemblies or institutions on equal terms with nonreligious assemblies or institutions.

(C) No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.

(D) No government with zoning authority shall unreasonably exclude from the jurisdiction over which it has authority, or unreasonably limit within that jurisdiction, assemblies or institutions principally devoted to religious exercise.

(2) FULL FAITH AND CREDIT.—Adjudication of a claim of a violation of the Free Exercise Clause or this subsection in a non-Federal forum shall be entitled to full faith and credit in a Federal court only if the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(3) NONPREEMPTION.—Nothing in this subsection shall preempt State law that is equally or more protective of religious exercise.

SEC. 4. JUDICIAL RELIEF.

(a) CAUSE OF ACTION.—A person may assert a violation of this Act as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) ATTORNEYS' FEES.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended—

(1) by inserting ''the Religious Liberty Protection Act of 1998,'' after ''Religious Freedom Restoration Act of 1993,''; and

(2) by striking the comma that follows a comma.

(c) PRISONERS.—Any litigation under this Act in which the claimant is a prisoner shall be subject to the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act).

(d) AUTHORITY OF UNITED STATES TO ENFORCE THIS ACT.—The United States may sue for injunctive or declaratory relief to enforce compliance with this Act.

(e) PERSONS WHO MAY RAISE A CLAIM OR DEFENSE.—A person who may raise a claim or defense under subsection (a) is—

(1) an owner of a dwelling described in section 803(b) of the Fair Housing Act (42 U.S.C. 3603(b)), with respect to a prohibition relating to discrimination in housing;

(2) with respect to a prohibition against discrimination in employment—

(A) a religious corporation, association, educational institution (as described in 42 U.S.C. 2000e–2(e)), or society, with respect to the employment of individuals who perform duties such as spreading or teaching faith, other instructional functions, performing or assisting in devotional services, or activities relating to the internal governance of such corporation, association, educational institution, or society in the carrying on of its activities; or

(B) an entity employing 5 or fewer individuals; or

(3) any other person, with respect to an assertion of any other claim or defense relating to a law other than a law—

(A) prohibiting discrimination in housing and employment, except as described in paragraphs (1) and (2); or

(B) prohibiting discrimination in a public accommodation.

SEC. 5. RULES OF CONSTRUCTION.

(a) RELIGIOUS BELIEF UNAFFECTED.—Nothing in this Act shall be construed to authorize any government to burden any religious belief.

(b) RELIGIOUS EXERCISE NOT REGULATED.—Nothing in this Act shall create any basis for restricting or burdening religious exercise or for claims against a religious organization, including any religiously affiliated school or university, not acting under color of law.

(c) CLAIMS TO FUNDING UNAFFECTED.—Nothing in this Act shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this Act may require government to incur expenses in its own operations to avoid imposing a burden or a substantial burden on religious exercise.

(d) OTHER AUTHORITY TO IMPOSE CONDITIONS ON FUNDING UNAFFECTED.—Nothing in this Act shall—

(1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or

(2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this Act.

(e) GOVERNMENTAL DISCRETION IN ALLEVIATING BURDENS ON RELIGIOUS EXERCISE.—A government may avoid the preemptive force of any provision of this Act by changing the policy that results in the substantial burden on religious exercise, by retaining the policy and exempting the burdened religious exercise, by providing exemptions from the policy for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden.

(f) EFFECT ON OTHER LAW.—In a claim under section 2(a)(2) of this Act, proof that a substantial burden on a person's religious exercise, or removal of that burden, affects or would affect commerce, shall not establish any inference or presumption that Congress intends that any religious exercise is, or is not, subject to any other law.

(g) BROAD CONSTRUCTION.—This Act should be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by its terms and the Constitution.

(h) SEVERABILITY.—If any provision of this Act or of an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provision to any other person or circumstance shall not be affected.

SEC. 6. ESTABLISHMENT CLAUSE UNAFFECTED.

Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the first amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the ''Establishment Clause''). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act. As used in this section, the term ''granting'', used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

SEC. 7. AMENDMENTS TO RELIGIOUS FREEDOM RESTORATION ACT.

(a) DEFINITIONS.—Section 5 of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–2) is amended—

(1) in paragraph (1), by striking ''a State, or subdivision of a State'' and inserting ''a covered entity or a subdivision of such an entity'';

(2) in paragraph (2), by striking ''term'' and all that follows through ''includes'' and inserting ''term 'covered entity' means''; and

(3) in paragraph (4), by striking all after ''means,'' and inserting ''any exercise of religion, whether or not compelled by, or central to, a system of religious belief, and includes (A) the use, building, or conversion of real property by a person or entity intending that property for religious exercise; and (B) any conduct protected as exercise of religion under the first amendment to the Constitution.''.

(b) CONFORMING AMENDMENT.—Section 6(a) of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–3(a)) is amended by striking ''and State''.

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term ''religious exercise'' means any exercise of religion, whether or not compelled by, or central to, a system of religious belief, and includes (A) the use, building, or conversion of real property by a person or entity intending that property for religious exercise; and (B) any conduct protected as exercise of religion under the first amendment to the Constitution;

(2) the term ''Free Exercise Clause'' means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion and includes the application of that proscription under the 14th amendment to the Constitution;

(3) the term ''land use regulation'' means a law or decision by a government that limits or restricts a private person's uses or development of land, or of structures affixed to land, where the law or decision applies to one or more particular parcels of land or to land within one or more designated geographical zones, and where the private person has an ownership, leasehold, easement, servitude, or other property interest in the regulated land, or a contract or option to acquire such an interest;

(4) the term ''program or activity'' means a program or activity as defined in paragraph (1) or (2) of section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a);

(5) the term ''demonstrates'' means meets the burdens of going forward with the evidence and of persuasion; and

(6) the term ''government''—

(A) means—

(i) a State, county, municipality, or other governmental entity created under the authority of a State;

(ii) any branch, department, agency, instrumentality, subdivision, or official of an entity listed in clause (i); and

(iii) any other person acting under color of State law; and

(B) for the purposes of sections 3(a) and 5, includes the United States, a branch, department, agency, instrumentality or official of

the United States, and any person acting under color of Federal law.

The SPEAKER pro tempore. Pursuant to House Resolution 245, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

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

Mr. Speaker, I rise in support of the amendment in the nature of a substitute. I will not repeat the arguments I made during the general debate as to why the underlying legislation is very necessary. I think the vast majority of the Members of this House agree with that proposition.

The real question is whether it is appropriate to ensure that this legislation, once enacted, while providing an effective shield for the religious rights of all Americans, will not be used as a sword against the civil rights of other Americans. I believe the amendment in the nature of a substitute strikes that balance, and does so without doing violence to the underlying purpose of the bill.

Members who support this legislation need not be concerned that the substitute will nullify its protections in any way. It is no secret there is substantial concern that establishing a standard that says a State and local law cannot be enforced in any case where someone raises a religious claim, unless the State can show a compelling interest in enforcing its law in the specific case, causes concerns about whether religious claims will prevail against State and local civil rights laws.

The Committee on the Judiciary has received testimony from some supporters of this bill who have testified very forthrightly that they have and will continue to bring free exercise litigation in an effort to undermine some civil rights protections.

While those religious beliefs may be sincere and entitled to a fair hearing, I think it is necessary to strike an appropriate balance without broad carve-outs and without politicizing the process, if that is possible.

The amendment recognizes that religious rights are rights that belong to individuals and to religious assemblies and institutions. General Motors does not have sincerely held religious beliefs, by its nature. My amendment protects individual and religious institutions.

In order to protect civil rights laws against the person who would say, ''My religion prohibits me from letting my corporation hire a divorced person or a disabled person, or a mother who should be at home with her children, or a gay or a lesbian person, and it prohibits me from letting my hotel rent a room to such people,'' never mind the State civil rights laws that prohibit this kind of discrimination, in order to protect civil rights laws against that sort of religious claim, the amendment places some limits on who may raise a claim under this bill against the application of a State or local law.

Any person would have standing, any person would have standing under this amendment to raise any claim with respect to any issue, with the following narrow exceptions: Except a claim against the housing discrimination law could be raised only by a small landlord who was exempted by the terms of the Fair Housing Act; a claim against an employment discrimination law could be raised only by a small business with five or fewer employees, in accord with the general practice of exempting very small businesses from employment discrimination laws; or by a church or other religious institution or religious school exercising its right to decide whom to employ based on its religious beliefs.

With these exceptions, businesses of any size could bring any free exercise claims. This is important for the mom and pop store that has difficulties with Sunday closing laws, or with laws allowing malls requiring stores to remain open 7 days a week, as well as for large firms that, for example, produce kosher meat or other products.

The amendment recognizes that in protecting any rights, we are always balancing other peoples' rights. The courts do it, we do it, and there is no way around it. I think this amendment accomplishes that end.

I can tell the Members that a great deal of work and consultation, both with Members of the religious coalition which is supporting this bill and with other civil rights groups, has gone into developing this language. It provides a basis to enact a bill that will pass and that will protect people who are in need of protection.

I know there are those who will object that this amendment is a carve-out, a set of exceptions to a general religious protection principle that will set a precedent for many more exceptions and could lead to gutting of the bill, to rendering our first freedom a hollow shell. I disagree.

In the first instance, this bill already has a carve-out that breaks the absolute, the principle of indivisibility that we must never have carve-outs. This bill limits the right of prison inmates to raise otherwise valid claims under the bill by specifically referencing the Prison Litigation Reform Act.

So we already have a carve-out in the bill. This is simply a second carve-out. The question is not should we have a carve-out, but is it important, worthwhile, and valid. I submit that to protect civil rights laws from possible claims under this bill, it is a valid protection.

Secondly, it is not a carve-out in the sense that, for instance, the prison carve-out is, where it simply says, this shall not apply by reference, or this shall not apply to this or that law. It is a limitation, a narrow limitation on standing which would be very difficult to extend further and which should not be extended any further.

I believe that without good faith compromise by people with vastly different beliefs, it would be difficult to get this bill through the Senate, through the House, and through the President. That was our experience with RFRA, and nothing has changed.

This amendment provides an opportunity to find the consensus we need to protect the rights of all Americans. If we could not draft this amendment, Mr. Speaker, if we had a stark choice in which we said we can either protect the free exercise of religious rights of people from the damage the Supreme Court has done to it at the expense of the civil rights of other Americans, or we can protect the civil rights of Americans but not their religious rights, that would be a terrible choice, indeed.

This amendment offers us a way to do both, protect the religious liberties we need to protect, as the gentleman from Florida (Mr. CANADY) and others have so eloquently expressed, but do so without violating or posing a threat to civil rights of Americans.

We ought to do it in the proper way without posing a threat to the civil rights of Americans. I therefore urge my colleagues to adopt this substitute amendment and, reluctantly, if the substitute is not adopted, I will urge my colleagues to vote against the bill so that we can have, further in the process, better odds of getting this amendment or something like this into the bill.

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

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do rise in opposition to the amendment in the nature of a substitute offered by my colleague, the gentleman from New York (Mr. NADLER). I at the outset would like to say that I know that the gentleman from New York (Mr. NADLER) is passionately committed to the protection of religious liberty in this country, and I believe that he has a sincere desire to deal with this issue in a responsible manner.

But I am concerned that in his efforts to develop language that will be acceptable to groups such as the ACLU, who have asserted concerns about this bill, concerns that I might add are based not on any current problems with the bill but on sheer speculation, he has varied from the principle that truly animates this bill.

In his efforts to address the concerns that a few groups have raised on the far left, he has denigrated, unintentionally, I will concede, unintentionally denigrated protection for religious liberty. Therefore, I would urge all Members to vote against the substitute that the gentleman has offered.

Again, Mr. Speaker, I want to express my utmost respect for the gentleman from New York. I know that he is passionately committed on this issue. I simply think that he has made a particular compromise here with the principle underlying this bill that we

should not make, and that the House should reject this amendment for that reason.

Mr. Speaker, H.R. 1691 is designed to provide the fundamental civil right of all Americans to practice their religion with a high level of protection, consistent with other fundamental rights. The Nadler amendment would subordinate religious liberty to all other civil rights, perpetuating the second class status for religious liberty that the court in effect created in the Smith case.

I do not think that is the gentleman's intent, but that is the actual effect of what his amendment does. We cannot get away from it. That is what it will do. That is not something that this Congress should countenance.

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Like the Religious Freedom Restoration Act, the Religious Liberty Protection Act is intended to provide a uniform standard of review for religious liberty claims. H.R. 1961 employs the ''compelling interest/least restrictive means'' test for all Americans who seek relief from substantial burdens on their religious exercise.

Under the amendment offered by the gentleman from New York, only a preferred category of plaintiffs are granted this protection. The gentleman can describe it as a ''carve in'' or a ''carve out,'' but the fact is some people are not going to get the protection that the bill would otherwise afford them.

While H.R. 1691 would restore the strong legal protection for religious freedom that was taken away by the Supreme Court in the Smith case, the Nadler amendment in effect perpetuates the weaker standard by intentionally excluding certain types of religious liberty claims from strict scrutiny review.

One reason the gentleman has expressed for the limitation on claims to businesses of five or fewer employees is to preclude General Motors from filing a religious liberty claim as a ruse to discriminate against people. With all due respect to the gentleman from New York, I think that no one who has seriously looked at this law could conclude that General Motors would have any claim under the Religious Liberty Protection Act. The argument that General Motors would have such a claim ignores the requirement of the bill that a claimant prove that his religious liberty has been substantially burdened by the government.

I do not think that General Motors or Exxon Corporation or any other such large corporation that the gentleman wants to bring forward as an example could come within a mile of showing that anything that was done would substantially infringe on their religious beliefs. They do not have a religious belief. They do not have a religious practice. It is not in the nature of such large corporations to have such religious beliefs or practices. So I think that that argument about Exxon and General Motors is, quite frankly, a bit of a red herring.

The gentleman from New York admits that his amendment does not track Title VII's exemptions from civil rights laws for religious institutions. He does not explain why he thinks that Congress ought to, in this bill, provide less protection for religious institutions than it has provided for so many years under Title VII. The Nadler amendment would restrict claims to the employment of people ''spreading or teaching the faith . . . performing . . . in devotional services or'' involved ''in the internal governance'' of the institution.

Title VII on the other hand states its provisions barring discrimination in employment ''shall not apply . . . to a religious corporation, association, educational institution or society with respect to the employment of individuals of a particular religion . . . to perform work connected with the carrying on by [a religious institution] of its activities.

Federal courts have recognized that this special provision for religious institutions is a broad one and permits those entities, churches, synagogues, schools, which are covered by it to discriminate on the basis of religion ''in the hiring of all of their employees.''

Mr. Speaker, if the Nadler amendment passes, Congress will have departed from the long-standing protection that it has afforded churches, synagogues, parochial schools and all other religious institutions for decades by embodying in Federal law for the first time a narrower protection for the religious liberty of religious institutions. There is no good reason to depart from the policy of protection for religious organizations established in Title VII.

I think it is worth noting that the groups that urge adoption of this amendment did not find similar fault with the Religious Freedom Restoration Act. And I know that is not something that the proponents of this amendment want to hear about. That was then and this is now. But all the arguments related to civil rights that have been advanced today were equally applicable to the Religious Freedom Restoration Act.

On a general point about civil rights, the President and the administration have expressed their strong support for this legislation. I cannot speak for the President, but I have read the letter that was sent. Strong support is expressed.

The President was a strong proponent of the Religious Freedom Restoration Act, and I know he views that legislative accomplishment as something that was very significant. I think it is strange a bit to claim that this bill, which is strongly supported by the administration, poses such a great threat to civil rights. It just does not stand up to serious consideration. That sort of argument just does not.

With all due respect to the gentleman from New York, I must suggest that I do not believe the President would express his strong support for a bill that would have the impact that some others have suggested it would have.

Mr. Speaker, we go back to RFRA, the ACLU-supported RFRA. Now they have changed their minds. What triggered this objection? I think what all of this is about, if we get right down to the facts of what is motivating this, was a 9th Circuit case in which a small religious landlord challenging a housing law was granted an exemption from compliance. This should not be a cause for alarm. It is clear from the case law that under strict scrutiny sometimes religious landlords win their claims for exemption, sometimes they do not depending upon the facts of the case.

H.R. 1691 will continue in this tradition weighing and balancing competing interests based on real facts before the Court. Religious interests will not always prevail, nor will those of the government. But the Nadler amendment would determine in advance that the interest of the Government will always prevail in certain cases. This is not what this Congress intended when it passed RFRA unanimously here in the House and is not the type of law I believe the American citizens want their Congress to enact.

Let me finally say that H.R. 1691 remedies the Smith case's tragic outcome which resulted in only politically influential people being able to obtain meaningful protection of their religious freedom against a neutral law of general applicability.

The Nadler amendment, on the other hand, exemplifies the problem created in the Smith case by legislatively doling out protection only to politically influential classes of claimants, or perhaps more accurately denying protection to politically not influential classes of claimants. Now, that is not the way we should be operating when we are dealing with religious liberty. Religious liberty should not be put in a second-class status to other civil rights. That is just not right.

Now, we are not saying in this bill that religious freedom always takes precedent over everything else. That is not what the bill does, and the gentleman knows that, and anyone who has read the bill knows that. But those of us who oppose this amendment are simply saying that it is not right to establish as a matter of Federal policy in this bill that protection for the free exercise of religion, protection for the civil right of the exercise of religion is in second-class status behind other civil rights.

So on that basis I would urge the Members of the House to reject the amendment offered by the gentleman from New York (Mr. NADLER) and move forward to the passage of this bill which has such broad support from the religious community. As we have noted earlier, it is truly remarkable that such a diverse group of religious organizations have joined together in support of any legislation. It is an unusual

circumstance when we can come to the floor with such broad support. We have that broad support in the religious community. We have the support of the administration.

Mr. Speaker, I would like to thank the Department of Justice for the work that they have done in helping us craft this legislation and addressing various concerns that had existed. They were very helpful in making suggestions which I think have strengthened the bill; and I, as the chief sponsor of this legislation, want to express my gratitude to the Attorney General for the assistance that was provided.

We need to get on with this job. This is a problem that we have been struggling with since 1990, nearly a decade. Congress tried to address the problem back in 1993 during my first term as a Member of Congress. The effort we have made then has proved to not be successful in the way that we intended it. We have come back to the drawing board, and we have an approach here which we think will do the job within the constraints that the Supreme Court has imposed on us.

Mr. Speaker, the House should listen to the voice of the religious community. The House should reject this weakening amendment and pass this important legislation.

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

Mr. NADLER. Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. WEINER), a member of the committee.

Mr. WEINER. Mr. Speaker, as a member of the Committee on the Judiciary I have found a comfortable place standing somewhere between the gentleman from Florida (Mr. CANADY) and the gentleman from New York (Mr. NADLER), and on this issue I believe I am there again. I want to commend the gentleman from Florida for drafting an excellent bill, one that I am proud to cosponsor. And I also am proud to support the amendment offered by the gentleman from New York, which I believe makes a good bill a little bit better.

In 1963, the Supreme Court issued an important decision in Sherbert vs. Verner. In that case a South Carolina woman was denied unemployment compensation. Her denial was not based on any lack of interest in working but because she refused to work on Saturdays. South Carolina tried to argue that this woman had refused an employment opportunity. This, however, was not the case. Ms. Sherbert observed the Sabbath and she did no work from sundown Friday to sundown Saturday. The same is true for so many of my constituents.

Her religious beliefs demanded that she decline employment opportunities that involved Saturday work, but her State saw fit to deny her unemployment compensation. Her case was litigated all the way to the Supreme Court, and there the Court held that the State's refusal violated the free exercise clause because its denial of unemployment compensation forced Mrs. Sherbert to choose between religious adherence and unemployment compensation benefits.

The Court rightly ruled that South Carolina's interest in denying benefits was neither compelling nor was it narrowly tailored. Unfortunately, since that time the Supreme Court has retreated from that position and there have been several other examples that have emerged.

The bill that the gentleman from Florida (Mr. CANADY) and I and others have sponsored seeks to reverse that. And I believe that the gentleman from New York (Mr. NADLER) has said in his arguments on the floor that he supports that concept. It is something that all of us agree on. The gentleman from Florida has argued, and I agree, that this is not a bill that is intended to be an attack on civil liberties. What the Nadler amendment seeks to do is make that clear. Make it clear that in our efforts to restore religious liberties we are not taking a hatchet to civil liberties. I would not have sponsored the bill if I thought that that was the case.

Mr. Speaker, I think that what the Nadler language does is make it very clear that while we are going to have conflicts between religious rights and between civil liberties with or without H.R. 1691, what this amendment makes clear is where we stand, and that is we are not trying to take from one group of rights to serve another group. The Nadler amendment strengthens what is already a very good and a strong bill. It allows us to all vote for strong civil liberties and strong religious liberties.

Mr. Speaker, I urge my colleagues to support H.R. 1691, and I urge support for the amendment offered by the gentleman from New York.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE), chairman of the House Committee on the Judiciary.

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

Mr. HYDE. Mr. Speaker, I would like to ask the gentleman from New York (Mr. NADLER) to listen to what I say and tell me if I am wrong. I want to make sure I understand the impact of his amendment.

It seems to me that what the gentleman is seeking to do is to carve out, lift from under the umbrella of this bill civil rights. And among the civil rights that he interprets are what are sometimes known as gay rights, that is the right of homosexuals to practice their homosexuality. And, therefore, that becomes a preferred right and the free exercise of religion becomes subordinate to that. Mr. Speaker, I would ask the gentleman if I am correct.

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

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

Mr. NADLER. Mr. Speaker, no, the gentleman from Illinois is not correct. The amendment makes no mention of gay rights or any other particular right, establishes no preferred status for anything.

The amendment limits standing as to who may bring a claim under this bill. And it says anybody may bring a claim, except with respect to housing discrimination small landlords only may bring a claim. With respect to hiring discrimination, small businesspeople or churches and religious institutions only may bring a claim. Who benefits from that depends on State and local law. That could be anybody. In other words, who can bring a claim against a State or local law.

Mr. HYDE. Mr. Speaker, reclaiming my time, it seems to me that absent the gentleman's amendment, the bill itself restores the compelling-interest standard which obtained before the SMITH case and that the question of which civil right trumps the free exercise of religion can be left to the States on a case-by-case basis.

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Therefore, the amendment of the gentleman from New York (Mr. NADLER) is really not needed.

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

Mr. HYDE. Surely. I yield to the gentleman from New York.

Mr. NADLER. Mr. Speaker, I think the gentleman from Illinois has got it backwards. The bill without the amendment does not lead to the decision of the States, what trumps what. Any State law would be trumped if the court finds that the State does not have a compelling State interest. If the court finds it has a compelling State interest, it is not trumped.

This amendment in effect takes out from that question and gives more effect to the State law in the limited cases of housing and employment discrimination with a carve-out from that provision for churches, small landlords, and small businesspeople.

Mr. HYDE. Mr. Speaker, it just seems to me the gentleman from New York is unduly complicating what is essentially not a complicated proposition. The civil rights that may or may not be jeopardized and any conflict with the free exercise of religion can be protected and will be protected on a case-by-case basis without the complexity of the gentleman's amendment.

So I just take this time to congratulate the gentleman from Florida (Mr. CANADY) for a very important bill and his persistence in getting it to this point. I support it without the Nadler amendment.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman from New York (Mr. NADLER) for yielding me this time and for his leadership on this very, very important issue.

Certainly we all support the spirit of the Religious Liberty Protection Act,

and I also commend the maker of H.R. 1691 for bringing it to the floor.

In its current form, however, the bill could undermine existing civil rights laws. We do need the Religious Liberty Protection Act. But, as I say, it could also, in its present form, undermine ongoing efforts to extend much-needed legal protections to currently unprotected and deserving individuals who suffer discrimination.

While the Religious Liberty Protection Act was designed to protect an individual's exercise of religion from the overreach of government, law, and regulation, I believe this act would itself overreach and could undermine laws that prohibit discrimination on the basis of disability, marital status, and parental status.

If this law passes without the Nadler amendment, individuals with disabilities, unmarried cohabitating couples, and single mothers could face more legal discrimination.

We would all, I think, oppose a measure that would allow an individual to use his or her religious exercise rights as a basis for legal claim to circumvent civil rights laws. I do not think there is any argument about that.

We would, none of us, ever permit this rationale to be used to permit discrimination on any basis of race against African Americans or Asian Americans. Yet, discrimination clearly and harshly continues against other individuals and groups. If the issue were race, we would not be having this debate. We would all stipulate that that discrimination should not take place.

This same principle should apply to these populations that could be adversely affected. That is why the Consortium for Citizens with Disabilities, the National Organization for Women, the Human Rights Campaign, and I might add, Mr. Speaker, the American Association of Pediatricians seek a civil rights solution to this bill. The amendment of the gentleman from New York (Mr. NADLER) offers that.

I think that we must support the underlying bill, if and only if the Nadler amendment passes. I thank the gentleman for his leadership on this legislation.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The gentleman from Florida (Mr. CANADY) has 15 minutes remaining. The gentleman from New York (Mr. NADLER) has 18 minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I thank the gentleman from Florida (Mr. CANADY) for yielding me this time. I also appreciate the comments that have been made by the gentleman from New York (Mr. NADLER) and by the gentlewoman from California (Ms. PELOSI) about the importance of this legislation, the reasons we need to move forward with it. Their commitments in the past in this area have been significant.

I would just like to say today that I think really what we are talking about here is the status of this right of religious liberty. When the gentleman from New York (Mr. NADLER) mentioned earlier his amendment would allow us to show what trumps what, I think that is exactly why I wanted to speak on this topic today, because I think we need to be careful that we do not create a second-class status for religious rights where those rights are automatically secondary to other rights. We should not be deciding that those rights are trumped by other rights. That is not what we are about here.

This legislation, as it is written, gives the fundamental civil right of all Americans to practice their religion a high level of protection. It is consistent with the other fundamental rights that we give in the Constitution and in our laws.

This legislation is consistent with title VII's long-standing exemptions for employees of religious institutions. There is nothing in this legislation that continues that.

This legislation establishes a process where we weigh and balance competing interests based on the real facts before the court. Religious interests, as defined here, would not always prevail, but they would not automatically be secondary. The facts that support those rights have equal standing in court with other rights equally protected by the Constitution.

I believe, and those of us in this body universally believe, that this is a government based on enumerated powers. Those powers are enumerated in the Constitution. Those enumerated powers are evidenced in this legislation.

This Act relies on three congressional powers: the power to spend, the power to regulate interstate commerce, the power to reach certain conduct under section 5 of the 14th amendment.

First of all, the Religious Liberty Protection Act protects individuals participating in federally assisted programs from burdens imposed by a government as a condition of participating, that those people could not be exempted from these programs because of their religious beliefs.

For example, an individual cannot be excluded from or discriminated against in a federally assisted program because of his or her religious dress or the holidays that they observe unless one can prove there is a compelling interest that that particular religious activity somehow makes it impossible to do that job.

Secondly, this Act protects religious exercise in the affecting of commerce. Some of our friends say we should not use the commerce clause here to determine whether or not a church can be built. Well, clearly, if one builds a church, if one adds on it a facility, one affects tens of thousands, sometimes hundreds of thousands, occasionally millions of dollars of commerce.

Using the commerce clause to protect religious liberty is appropriate and obvious. Because the commerce clause has sometimes been used in onerous ways does not mean we should shy away from using it for good or that we should shy away from using it to protect this freedom, to protect religious freedom.

Third, this legislation makes the use of the power of Congress to enforce the rights under section 5 of the 14th amendment consistent with recent court decisions, particularly the Supreme Court's decision in Boerne v. Flores.

What this does, it attempts to simplify litigation of free exercise violations as defined by the Supreme Court. These litigations do not need to be cumbersome. They do not need to be needlessly burdensome. Certainly no right in these litigations needs to be secondary to other rights in these litigations.

Evidence shows that individuals who have determinations in land use regulation that work against them, frequently we see that as a burden for religious activities. We see that particularly as it relates to minority faiths, and this bill reaches out and protects those minority faiths. We know that from the evidence of the very broad base of groups that are supporting this legislation today.

Again, I would like to close by simply saying that this legislation levels the playing field for a critical first amendment right. It does not allow the creation of a secondary right.

I think the Nadler substitute, while well intentioned, and I really admire what the gentleman from New York (Mr. NADLER) has done in these areas in the past, while this amendment is well intentioned, I think it does have the potential and the likelihood, and, in fact, what I think it does is relegate religious freedom and religious liberty and religious practice and religious rights to a secondary position. I think we need to have those rights as protected as any other right. Those decisions can be made by the court.

I support the bill and oppose the amendment, but I do so with deference to the sponsor of the amendment.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York (Mrs. MALONEY).

(Mrs. MALONEY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank him for his strong leadership on so many issues. I rise in support of the Nadler amendment.

The Religious Liberty Protection Act is a well-intentioned bill with a noble purpose. No State or local government should be able to restrict legitimate religious practices such as the wearing of a yarmulke or a crucifix or the celebration of certain religious holidays. But if we are not careful, then this well-intentioned bill may be used to weaken our Nation's civil rights laws.

Without the Nadler amendment, this bill could threaten the rights of single mothers, gays and lesbians, the disabled, and even perhaps members of certain religious groups.

Unfortunately, the Supreme Court retreated from Sherbert in 1990, and since then the courts and the Congress have engaged in a decade-long dialog over how to properly guarantee that all of our citizens are able to freely exercise their religious beliefs. This is not an academic debate being conducted in ivory towers and judicial chambers. Rather, this is a real-world issue of deep concern to my constituents and to Americans everywhere.

For example:

The Jewish principle of kavod hamet mandates that a dead body is not left alone from the moment of death until burial. For this reason, autopsies, in all but the most serious situations, are forbidden. Following the Supreme Court's ruling in 1990, courts in both Michigan and Rhode Island forced Jewish families of accident victims to endure intrusive government autopsies of family members, even though the autopsies directly violated Jewish law.

In Los Angeles, a court declined to protect the rights of fifty elderly Jews to meet for prayer in the Hancock Park area, because Hancock Park had no place of worship and the City did not want to create precedent for one.

In Tennessee, a Mormon church was denied a permit to use property which had formerly been used as a church. The city of Forest Hills, Tennessee decided it would not be in the best interests of the city to grant the church a construction permit and a local judge upheld the decision.

This bill could be used to deny housing or employment or otherwise discriminate against individuals based on their race, sexual orientation, disability, or marital status.

Mr. Speaker, there is no justification for discrimination. Our Nation has made enormous strides in the past 30 years toward offering equal opportunities for all, regardless of race, gender, religion, or sexual orientation.

We must not undo that progress under the guise of protecting religious freedom. But we also need to protect religious freedom. I urge my colleagues to support the Nadler amendment.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Speaker, I rise today in support of the Nadler substitute. In the 103rd Congress, I was an original cosponsor of the Religious Freedom Restoration Act. I would take second place to no one in this Chamber in terms of a concern about religious liberty protection. I take that very, very seriously. I understand the intent of this legislation as well.

But I think all of us who have looked at this legislation realize that the legislation will have an incredibly unfortunate consequence and that would be to allow the overturning of anti-discrimination statutes in the United States of America, statutes which are really at a fundamental core of the American experience.

There are well-intentioned, good arguments on both sides of this legislation. I think we come to this in one of our really better moments as an institution. But I really ask and I really plead with my colleagues who are contemplating not supporting the Nadler amendment to really spend the time to understand specifically what the effect of this legislation would do.

It will in fact, and I do not think there is an argument about this at all, it would in fact change protection that exists under present law against discrimination, whether Federal, whether State, whether county or local discrimination statute.

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It would force them into courts. And I think all of us understand that there will be many cases, and we do not know the exact percentage of those cases, that the standards of compelling State interest will not be met.

And that really is the issue in front of us, that in terms of actual discrimination that is protected against today, if this legislation were to pass those protections would not exist and, in fact, that discrimination would occur.

And in the balancing that we are trying to do, it would not, under any circumstance with the Nadler substitute, deal with some of the parade of horribles that I support the protections of that the gentleman from Florida (Mr. CANADY) mentioned previously in terms of religious schools, dictating hiring practices of churches.

I urge my colleagues, I implore my colleagues to support the Nadler substitute.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I rise in support of this legislation, and I think it is really important for us, when we are discussing discrimination and discussing how to treat each other decently in the society, to come to an honest analysis about whose ox is being gored in this society and whose toes are being stepped upon.

I think there is a wide consensus in our society today that people who live less traditional lives, let us say, or have different types of values, sexual values, et cetera, have a right to their privacy and a right to their personal lives and a right to live as they see fit in their own lives. But, frankly, in the last 10 years, what I have seen, which is very disturbing to me, is that people with more traditional views, especially more traditional Christian views, although I think that this is true of Muslims and Jewish people, who are deeply involved in their religious traditions as well, that those people are being told they cannot make determinations for themselves and for their lives and for their families that are consistent with their religious values.

I see the greatest victim of discrimination in our society today as being these people, these Christians, these Jews, these Muslims, who have more traditional religious values. If someone wants to have certain sexual activities, and this is what they desire and they do so in their privacy, there are very few people today who want the government to intrude in that.

But there seem to be a lot of people trying to force their way into the lives of others. For example, the Catholics cannot have a parade. They attempted to have a parade in New York, and people whose social lives and social values are totally in conflict with what Catholics believe feel that they can force their way into a Catholic parade, which is, to me, violating those Catholics' right to have their own beliefs.

We have the Boy Scouts of America, which is a private organization, and they have certain moral standards that they believe in. Now, who is under attack? Who is under attack here? The Boy Scouts of America are spending millions of dollars just to maintain what they consider to be their moral standards.

No one is out forcing their way into the homes of other people who want to live in their privacy and want to live decent lives with their own values in terms of whether or not they are in agreement with some of these more traditional values, but the ones with the traditional values are under attack all the time.

I think this piece of legislation is going to try to swing the pendulum back. Certainly 25 and 30 years ago there was great discrimination in our country against certain nonconformists, one might say, of people who had different than the traditional values. Today, that pendulum has swung so far in the opposite direction that people with more traditional values are under attack, and we need to protect their rights as well.

So this, I think, is a balance and I support the legislation.

Mr. NADLER. Mr. Speaker, I yield myself 15 seconds.

The views expressed by my friend from California are very interesting views. I would simply point out two things.

Number one, this bill does and is intended to protect religious freedom for traditional Christians and Jews and for untraditional people, for wiccans, witches, or whatever their religious views. And, secondly, this has nothing whatsoever to do with this amendment. It does with the bill, but not with this amendment.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. WEXLER).

Mr. WEXLER. Mr. Speaker, I rise in support of the Nadler amendment, strong support, and in doing so acknowledge and recognize that H.R. 1691 and the sponsor, the gentleman from Florida (Mr. CANADY), seek to address very important wrongs that are occurring in the United States today. There are, in fact, numerous examples of planning and zoning decisions that are being made for the either inherent or obvious purpose of denying individuals or groups their religious freedom.

In my own community in South Florida, oftentimes there are autopsies

that are conducted in violation or contrary to people's religious beliefs, when there is little or no State purpose for doing so. And the State acts either out of insensitivity or just out of lack of knowledge for people's religious beliefs. And I believe the purpose of this bill would be to correct those violations, and that I support and compliment.

But in doing so, there also is a flip side. The flip side is that in protecting one group's religious freedom, which is noble and certainly applaudable, we are, to some degree, and we can argue to what degree that is, but to some degree jeopardizing the rights of others.

And while the gentleman from California (Mr. ROHRABACHER) may suggest that people are trying to force themselves on maybe more traditional people in this country, I do not see it that way. What these so-called less traditional people are trying to do is work. They are trying to live in an apartment. And if that is forcing themselves on someone, well then, that is exactly why we need the Nadler amendment. Although, although, what the Nadler amendment seeks to do is both protect religious freedom and protect civil rights.

This bill, as it is currently drafted, puts us in an untenable situation, civil rights versus religious liberty. Support the Nadler bill.

Mr. NADLER. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The gentleman from New York (Mr. NADLER) has 12 minutes remaining, and the gentleman from Florida (Mr. CANADY) has 7 minutes remaining.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. SCOTT).

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

Mr. Speaker, the Nadler amendment points out the problem of the underlying bill, and that is that without this amendment it may sabotage the enforcement of laws of general application, like civil rights laws, child protection laws and others. We should not subject vigorous enforcement of civil rights laws to individual beliefs.

We know that there are some in our society, and we have seen on Web sites the Church of the Creator, where some have strongly held beliefs about race, and we should not make civil rights laws optional. Without this amendment, those people who just do not believe in civil rights can require a showing of a compelling State interest and least restrictive means to complicate the enforcement of civil rights laws by declaring that the compliance with the civil rights laws might violate their beliefs.

Mr. Speaker, I would hope that we would not subject our civil rights laws it took us too long to enact and so long to enforce to this kind of situation. I would hope that we would adopt the Nadler amendment so these civil rights laws could be enforced.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. EDWARDS) for the purpose of a colloquy.

Mr. EDWARDS. Mr. Speaker, I would like to engage the chief sponsor of this legislation in a colloquy in order to address concerns that the bill advantages or disadvantages any group or ideological perspective.

Could the gentleman from Florida please explain how the compelling-interest standard works in this legislation?

Mr. CANADY of Florida. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Speaker, the compelling-interest standard is fair, but rigorous, not only for the government but also for religious claimants. The standard neither allows religious interests to always prevail, nor those of the government, even when its interests are compelling.

The standard weighs and then balances competing interests, first considering the burden on the claimant's interest and then evaluating the government's interest in disallowing an exemption to the law or regulation and the available alternatives for achieving the government's goals. The Religious Liberty Protection Act, like the Religious Freedom Restoration Act, does not define the various elements of the standard.

The legislation imposes a standard of review, not an outcome, and the cases are litigated on the real facts before the courts. Thus, it is difficult in some hypothetical cases to predict with certainty which interests will prevail.

Mr. EDWARDS. Reclaiming my time, Mr. Speaker, I would further ask if it is correct that the point of this legislation is that by adopting the compelling-interest standard Congress is acknowledging that courts will consider and weigh important interests behind these laws; and that because each religious claimant's situation is unique, it is appropriately left to the courts to weigh the competing interests; and that because the legislation is not designed to resolve any specific case or set of facts, it is neutral and does not directly address a specific outcome.

Mr. CANADY of Florida. That is correct.

Mr. EDWARDS. I thank the gentleman for this clarification.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I rise in support of the Nadler amendment and want to encourage my colleagues to support the amendment.

The thing that is really interesting about the debate on the Nadler amendment is how everybody seems to be claiming to be on the same side. The proponents of the underlying bill say, ''Oh, no, we are not trying to trump civil rights laws.'' The gentleman from New York (Mr. NADLER) says, ''Oh, no, we are not trying to trump religious use protection.'' And then we have people really claiming to be achieving the same objective, protecting religious freedom and protecting civil rights laws.

The problem is those same people started out together, and they have been together all along during this process. The gentleman from New York has been trying to get the proponents of the bill to accept his amendment from the very beginning. He has gone through different iterations of it, revisions of it, and here we are on the floor of the House with everybody still saying they support the same objective: ''We do not want to undo civil right laws,'' they say, ''but we are not going to support the Nadler amendment to make that clear.''

Well, there is a third version. There is the NAACP Legal Defense Fund saying that the amendment of the gentleman from New York does not go far enough. I happen to agree with the Legal Defense Fund in its assessment, but I will tell my colleagues what I am prepared to do. Since everybody says they would like to work this out in the conference committee, and everybody is trying to achieve the same objective, I have decided that I will support the Nadler amendment and I will vote for the bill if the Nadler amendment is adopted and we can continue to work on this in conference.

The problem that I have is the people who keep telling me this is going to work itself out in conference are the people who have not given one inch, one word throughout the whole discussion of this process. We need to adopt this amendment and pass the bill; or, if we reject the amendment, we need to vote against the bill.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I was interested to hear the colloquy between the gentleman from Texas (Mr. EDWARDS) and the gentleman from Florida (Mr. CANADY). It reinforces the central point. This bill is a Federal act that says to Federal judges, ''Go forth and pick and choose amongst State laws.''

This empowers Federal judges to decide what is the compelling interest according to the State and what is not.

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And if a State has said they are going to protect them if they are unmarried and seek with their child to get housing, it will be up to the Federal judge to decide whether that State law beats a religious objection; if they are gay or lesbian, it will be up to the Federal judge to decide whether the State law in Connecticut or Wisconsin or Minnesota or California is overridden; if they are an unmarried couple seeking

to live together, it will be up to the Federal Government to judge whether or not they can rent an apartment from a corporation, the stockholders of which said it is their religious objection.

The gentleman from California (Mr. ROHRABACHER) cited the Boy Scouts and the March. Let us be very clear. Neither one of those has the remotest thing to do with this bill. Both of those entities, the people having the parade and the Boy Scouts, are already protected under the law. Nothing in the law would add to that protection. But, on the other hand, nothing in the Nadler amendment would detract one iota.

The gentleman from New York (Mr. NADLER) says this: If they seek to live somewhere in a non-owner-occupied building or a very large apartment building, or if you seek a job with an employer with more than five people, if they can do the job, if they can pay the rent, their personal habits, whether they are married or not, whether they are gay or not, whether they have some particular affliction or not that might offend someone's religion will not keep them off of the work rolls, it will not keep them out of that house.

We do not impinge on anybody's individual religious practice. Nobody goes into anybody's home. No one is involved here, under the Nadler amendment, with the ability to interfere.

We are saying that they should not say where a State has said they wish to protect them based on their sexual orientation or their marital status or the fact that they have children. They should not allow Federal judges selectively to overrule those because those Federal judges do not find the State's policy a compelling interest.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The gentleman from Florida (Mr. CANADY) has 5½ minutes remaining. The gentleman from New York (Mr. NADLER) has 7 minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 2½ minutes to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, first of all, I would like to commend the gentleman from Florida (Mr. Canady) for his excellent work in defending our Constitution and the first freedom enumerated there.

In fact, we all know from our history that our forefathers came to this country for religious liberty. And it was not a coincidence that when they drafted our Constitution the very first right that they enumerated was the right to religious liberty. And this right has been unquestioned in our country until 1990.

Of all things, in 1990, the Supreme Court of the United States, in a 5–4 decision, questioned the right of every citizen to our right to full expression of our religious freedoms and beliefs. There was a long-standing principle that the State had to have a compelling reason to interfere with that right, and they did away with that.

I am happy to say that this Congress, in 1993, with only three dissenting votes, passed legislation again saying that the Government has to have a compelling reason to interfere with our religious liberties. President Clinton signed that legislation.

Unfortunately, the Supreme Court came back and basically said, we cannot do that; it is unconstitutional for the Congress to try to protect our freedom of religion. Thank goodness they had not done that with some of our other freedoms.

So we are here today again. And I will say to my colleagues that, as a Congress, all three branches of government have an obligation and a duty to protect our constitutional rights and our freedom. It is not the sole responsibility of the Supreme Court, particularly in this case where the Supreme Court has shirked that responsibility and has actually taken away a freedom guaranteed in our Constitution.

I would hope that every Member of this body, with not three dissenting votes but unanimously, would say to this country and the people we represent, their religious freedoms will not be violated. If they are a prisoner and they want to confess to their priest, we will not monitor that confessional; we will not prohibit them from talking to their priest; we will not prohibit a church here in Washington, D.C., to feed the homeless; we will not prohibit Jewish prisoners from wearing a yarmulke.

It is time to end this abuse. It is time to pass this bill.

Mr. NADLER. Mr. Speaker, it is now my privilege to yield 1½ minutes to the gentleman from Michigan (Mr. CONYERS), the distinguished ranking member of the Committee on the Judiciary.

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

My colleagues, as the bill presently stands, whenever a parties brings suit claiming discrimination, the defendant will be able to claim that this is inconsistent with their religious beliefs.

We are creating a huge disparity here. The Nadler amendment responds to the problem, thank goodness, by specifying that the bill's protections only apply to individuals, religious institutions, and small businesses.

So the amendment will be particularly helpful with regard to laws prohibiting discrimination based on marital status, disability, sexual orientation, where there has not been found by the court a compelling interest test.

That is why the NAACP Legal Defense Fund and the American Civil Liberties Union have recently broken from this loose coalition because they realize what we would be doing if we allowed this bill to go through without this very important amendment.

We do not want to turn a shield into a sword. At our hearings, the Christian Legal Society acknowledged that they planned a widespread campaign to use the Religion Freedom Protection Act to undermine State laws protecting people with different orientations.

Please support the Nadler substitute.

Mr. NADLER. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON LEE of Texas. Mr. Speaker, I thank the gentleman from New York for yielding me the time.

Mr. Speaker, I started out this debate earlier today acknowledging that we have more in common than we have in disagreement.

Today I rise and stand on behalf of the Sabbath keepers, on behalf of those who wear yarmulkes, on behalf of churches who feed the homeless, because I am standing in support of the Nadler amendment, particularly emphasizing the fact that the free exercise of religion is a prominent and important right and why can we not do it together, raising the concern that we should not discriminate against those in businesses and governments with respect to their employment, participation in the rental market, their right to observe the Sabbath, to wear religion articles, and to follow the other teachings of their faith, including those relating to family life, the education of children, and the conduct of their religious institutions. The Nadler amendment stands for this.

But at the same time, as we did in my State of Texas, the Nadler amendment respects unmarried couples and single parents, lesbians and gays, maybe even racial and ethnic groups who differ in their acceptance in this community.

Mr. Speaker, I am a believer in the free exercise of religion. But my ancestors, unfortunately, came as slaves. We had to be educated about the democracy, if you will, late in life and the free exercise of religion. I would hope we would not go along the lines of the free exercise of religion and civil rights.

I offer in testimony, Mr. Speaker, the words of Scott Hochberg, the proponent of the legislation in Texas, where, in a bipartisan manner, this same legislation was passed and George Bush signed it. And what it offered to say is that he supports a strong religion liberty but he wanted to ensure that the Texas civil rights were not violated. They worked together in Texas.

I will close by simply saying, let us work together and vote for the amendment.

Mr. Speaker, today, we discuss what I believe is sorely needed legislation to restore the legal protections for the free exercise of religion. These legal protections have been dangerously eroded by the Supreme Court in its 1990 Employment Division v. Smith decision.

Congress attempted to remedy this by enacting on a bipartisan basis, the Religious Freedom Restoration Act, which the Court struck down in part in its 1997 City of Boerne v. Flores decision.

H.R. 1691, the Religious Liberty Protection Act ("RLPA") seeks to restore the application of strict scrutiny in those cases in which facially neutral, generally applicable laws have

the incidental effect of substantially burdening the free exercise of religion. I believe that the government should not have the ability to substantially burden a right that is enshrined in Constitution unless it is able to demonstrate that it has used "the least restrictive means of achieving a compelling state interest." (Thomas v. Review Board, Indiana Employment Security Commission, 450 U.S. 707, 718 (1981)).

I am concerned that this legislation if left unamended could have deleterious affects on the enforcement of State and local civil rights laws. Many Americans, including unmarried couples, single parents, persons with different lifestyles, maybe even racial and ethnic minorities with different religious beliefs.

The amendment offered in the nature of a substitute by Mr. NADLER of New York would address these concerns. This amendment would appropriately strike a balance between the free exercise sincerely held religious beliefs and the enforcement of hard-won civil rights.

The amendment, crafted in consultation with both religious and civil rights groups clarifies the fact that religious liberty is an individual right expressed by individuals and through religious associations, educational institutions and house of worship. It also makes clear that the right to raise a claim under RLPA applies to that individual. A non-religious corporate entities could not use a RLPA for a claim or defense to attack civil rights laws.

Individuals, under this amendment, could still raise a claim based on their sincerely held religious beliefs which are substantially burdened by the government, whether in the conduct of their businesses, their employment by governments, their participation in the rental market, their right to observe the sabbath or to wear religious articles and to follow the other teachings of their faith, including those relating to family life, the education of children and the conduct of their religious institutions.

I urge my colleagues to join with me in supporting the Nadler amendment as it is a positive step forward in protecting the rights of all Americans and finally restores the legal protections for religious freedom for the average American citizens that have been threatened for nearly a decade.

TESTIMONY OF TEXAS STATE REPRESENTATIVE SCOTT HOCHBERG, SENATE JUDICIARY COMMITTEE—JUNE 23, 1999

Mr. Chairman and Members of the Committee;

I appreciate the opportunity to share some thoughts with you today.

Two weeks ago, Governor George W. Bush signed the Texas Religious Freedom Restoration Act (Texas RFRA) into law, I as privileged to work the Gov. Bush as the House author of this important bill. And I'm proud of this bill, because I believe it strengthens religious freedom in Texas without weakening other fundamental individual rights.

Long before I ever heard of the Smith case or the federal RFRA, I knew how hard it was for individuals to assert their first amendment religious freedoms against the bureaucracy. I've fought battles with our prison system over allowing Jewish prisoners to practice their faith. And I found I had to pass a law before I could be sure that judges would not repeat the incident that occurred in a Houston courtroom, where an Orthodox Jewish man was required to remove his skullcap, in direct conflict with his religious practices, before he could testify.

So when the American Jewish Committee and the Anti-Defamation League, on whose local boards I serve, put the state Religious Freedom Restoration Act on their legislative agendas, I was eager to become the lead sponsor. And I was certainly encouraged by the early and strong support of Gov. Bush, who announced just before the opening of our legislative session that Texas RFRA would be one of his legislative priorities as well.

Of course you know that no bill is a simple bill. Early on, I saw that the model RFRA language left open a possibility that the act could be used to get around Texas' civil rights laws. That concern was first raised to me by the AJC, and then later the ADL, the two groups that had initially brought me the legislation, and two groups with long histories of defending civil rights internationally.

Clearly, the intended purpose of this bill was not to weaken civil rights laws. When Gov. Bush talked about the need for RFRA, he cited examples, including the skullcap situation, where RFRA could be used to help protect a person's religious practice from government interference. None of the examples were about giving any individual the right to deny another person's equal protection rights.

The Texas Constitution is very clear about the primacy of civil rights. The third and fourth sections of our Bill of Rights guarantee equal protection under the law. The next three sections protect religion and guarantee freedom of worship. So, clearly, our framers saw these fundamental rights as being on the same plane.

I wanted to pass a strong RFRA in Texas, but not one that would rewrite Texas civil rights laws. So I added language clarifying that the act neither expanded nor reduced a person's civil rights under any other law. That language drew no objection initially.

But later, some RFRA coalition members argued that to completely move civil rights out from under RFRA might imply that even a religious organization could not use religion as a criteria in hiring—an exemption that is included in our state labor code as well as in federal law.

So coalition members helped craft language to apply RFRA to the special circumstances of religious organizations, while continuing to leave the task of balancing religious and equal protection rights to the courts. That language was unanimously adopted in a bipartisan amendment on the House floor, and remained intact in the bill as it was signed by Gov. Bush.

The RFRA coalition in Texas endorsed the civil rights language and strongly supported the bill, from the Texas Freedom network on the left to the Liberty Legal Institute on the right. I must tell you, however, that one or two conservative groups in this very broad coalition objected and went so far as to ask Gov. Bush to veto the bill. He chose not to do so. Those particular groups said that they had hoped to use RFRA to do exactly what others had feared—to seek to override, in court, various civil rights laws that they had not been able to override legislatively.

I urge you to adopt a strong law to reinforce what we have done in Texas. But in so doing, I would also ask that you follow the wisdom of our governor and our legislature and include language to protect state civil rights laws.

I offer whatever assistance I can be to help develop and refine the language of this bill so that those goals are met.

This is too important a bill to be lost as a result of a fear of weakening civil rights. But likewise, national and state civil rights policies are too important to be weakened as an unintended by-product of a bill with the noble purpose of strengthening religious rights.

Thank you again for your consideration, your time and your hard work.

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

The SPEAKER pro tempore. The gentleman from New York (Mr. NADLER) has 4 minutes remaining. The gentleman from Florida (Mr. CANADY) has 3 minutes remaining.

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

Mr. Speaker, everything that has been said in support of the bill, as my colleagues know, I agree with. I support this bill. I think it is an important bill. I helped draft it. But it has a terrible flaw, and we must pass this amendment. The bill should be used as a shield for religious liberty but not as a sword against civil rights laws. And that is the problem and the need for this amendment. This amendment will prevent it from being used as such a sword against civil rights laws.

My distinguished colleague, the gentleman from Florida (Mr. CANADY), who has done yeoman's work on behalf of religious liberties and who I really respect on this, he says that the amendment would subordinate religious liberty. It does not subordinate religious liberty in any way.

In fact, the bill, by establishing the compelling interest standard, establishes religious freedom as preeminent over other rights. Rarely can a State show a compelling as opposed to a legitimate interest. We could, if we wanted to, adopt the Supreme Court test of balancing the competing interests by the legitimate interest tests, and that would be an even playing field. But we are not doing that.

We are, and I agree with this, establishing a compelling State interest test which establishes religious liberty as compelling over other interests. And I think that is proper to do so. We should afford religion a preferred status, but we are also entitled to fine-tune that balance if we think the courts, pursuant to that mandate of establishing religious freedom as a preferred status, will not do it quite right.

What this amendment does is to create a somewhat different balance in the area of civil rights. Because recent court decisions that found that States had no compelling State interest in a case involving, for example, a State law against housing discrimination in a multiple dwelling, the State did not have compelling interest to enforce its antidiscrimination law in a multiple dwelling.

The courts sometimes make mistakes. We want to exercise our rights in this amendment to tell the courts a little more finely how to balance it in the civil rights area. We are telling them to use the compelling State interest test to establish religion as preeminent in every other case. In civil rights, we are saying, be a little different than that.

Finally, let me say that the religious groups that are supporting this bill, I have spoken with most of them, not all

of them, and most of them told me that they agree, they can live with the amendment, it gives them no practical problems, it protects all their legitimate interests. They only disagree with it because of what the gentleman from Florida (Mr. CANADY) said before, the principle of indivisibility, that there should be one standard.

Mr. Speaker, let me simply say, sometimes we have to balance competing rights. We should adopt this amendment so that we do not have to say we will protect religious liberty at the expense of civil rights or civil rights at the expense of civil liberty. We can and should do both. With this amendment, we can and should pass the bill. And without the amendment, I would hope that we would not pass the bill today so that we can get a little more leverage to fine-tune the bill with something like this amendment before we finally pass it, as indeed we must eventually.

So I urge my colleagues to support this amendment.

□ 1400

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

Mr. Speaker, I want to encourage the Members to focus on what is actually taking place and the actual consequence of the amendment that the gentleman has offered. It would establish as a matter of congressional policy that religious liberty would have a second-class status. I do not think that is really what the gentleman wants to do, I acknowledge that, but that is the effect of the language of his amendment.

Let me point out that there are folks who have some of the same views on a whole range of civil rights issues, including issues related to homosexual rights, that the gentleman from New York has who have expressed their support for this bill without the gentleman's amendment. Members of Congress have received a letter just this week from groups such as the Friends Committee on National Legislation, the American Humanist Association, the Evangelical Lutheran Church in America, the Board of Church & Society of the United Methodist Church, People for the American Way, the Presbyterian Church (USA), Washington Office, where they say and they recognize some of the concerns that the gentleman has expressed but where they conclude, and I quote them, ''We believe that in every situation in which free exercise conflicts with government interest, application of the Religious Liberty Protection Act standard is appropriate.'' They go on to say, ''A no-exemptions, no-amendment Religious Liberty Protection Act provides the strongest possible protection of free exercise for all persons.''

I would suggest that some who have listened to the concerns expressed by the gentleman from New York and others pay attention to the view of these religious and civil rights groups. I would suggest that Members consider the broad coalition of groups that are supportive of this legislation. I do not have time to list them all. I will try to list a few in the few seconds that I have remaining:

The American Jewish Committee, Americans United for Separation of Church & State, the Anti-Defamation League, the Baptist Joint Committee on Public Affairs, Campus Crusade for Christ, the Catholic League for Religious and Civil Rights, the Christian Coalition, the Christian Legal Society, Christian Science Committee on Publication, the Church of the Brethren, the Church of Jesus Christ of Latter-Day Saints.

I will skip toward the end of the alphabet here. The Union of American Hebrew Congregations, the Union of Orthodox Jewish Congregations of America, the United Methodist Church, Board of Church & Society; the United States Catholic Conference, the United Synagogue of Conservative Judaism; Women of Reform Judaism, Federation of Temple Sisterhoods. Those are just a few of the more than 70 religious and civil rights organizations that support the Religious Liberty Protection Act.

I would urge all Members of this House to join together in a bipartisan effort to protect America's first freedom by passing this bill, this important bill, without the weakening amendment offered by the gentleman from New York. His amendment would do harm to this bill and needs to be rejected. We need to move forward with the passage of this legislation.

ORGANIZATION SUPPORTING H.R. 1691, ''RELIGIOUS LIBERTY PROTECTION ACT OF 1999''

A

Agudath Israel of America
The Aleph Institute
American Baptist Churches, USA
American Center for Law and Justice
American Conference on Religious Movements
American Ethical Union, Washington
American Humanist Association
American Jewish Committee
American Jewish Congress
American Muslim Council
Americans for Democratic Action
Americans for Religious Liberty
Americans United for Separation of Church & State
Anti-Defamation League
Association on American Indian Affairs
Association of Christian Schools International

B

Baptist Joint Committee on Public Affairs
B'nai B'rith

C

Campus Crusade for Christ
Catholic League for Religious and Civil Rights
Central Conference of American Rabbis
Christian Church (Disciples of Christ)
Christian Coalition
Christian Legal Society
Christian Science Committee on Publication
Church of the Brethren
Church of Jesus Christ of Latter-Day Saints
Church of Scientology International
Coalition for Christian Colleges and Universities
Council of Jewish Federations
Council on Religious Freedom
Council on Spiritual Practices
Criminal Justice Policy Foundation

E

Episcopal Church
Ethics, and Religious Liberty Commission of the Southern Baptist Convention
Evangelical Lutheran Church in America

F

Jerry Fawell's Liberty Alliance
Family Research Council
Focus on the Family
Friends Committee on National Legislation

G

General Conference of Seventh-Day Adventists
Guru Gobind Singh Foundation

H

Hadassah, the Women's Zionist Organization of American, Inc.

I

Interfaith Religious Liberty Foundation
International Association of Jewish Lawyers and Jurists
International Institute for Religious Freedom

J

Kay Coles James
Japanese American Citizens League
Jewish Council for Public Affairs
The Jewish Policy Center
The Jewish Reconstructionist Federation
Justice Fellowship

L

Liberty Counsel

M

Mennonite Central Committee U.S.
Muslim Prison Foundation
Muslim Public Affairs Council
Mystic Temple of Light, Inc.

N

NA' AMAT USA
National Association for the Advancement of Colored People
National Association of Evangelicals
National Campaign for a Peace Tax Fund
National Committee for Public Education and Religious Liberty
National Council of Churches of Christ in the USA
National Council of Jewish Women
National Council on Islamic Affairs
National Jewish Coalition
National Jewish Commission on Law and Public Affairs
National Native American Prisoner's Rights Advocacy Coalition
National Sikh Center
Native American Church of North America
Native American Rights Fund
Native American Spirit Correction Project
Navajo Nation Corrections Project
North American Council for Muslim Women

P

Pacific Justice Institute
People for the American Way Action Fund
Peyote Way Church of God
Presbyterian Church (USA), Washington Office
Prison Fellowship Ministries

R

Rabbinical Council of America
Religious Liberty Foundation
Rutherford Institute

S

Sacred Sites Inter-faith Alliance
Soka-Gakkai International-USA

U

Union of American Hebrew Congregations

Union of Orthodox Jewish Congregations of America
Unitarian Universalist Association of Congregations
United Church of Christ, Office for Church in Society
United Methodist Church, Board of Church & Society
United States Catholic Conference
United Synagogue of Conservative Judaism

W

Women of Reform Judaism, Federation of Temple Sisterhoods

Mr. POMEROY. Mr. Speaker, I rise in support of the Nadler amendment to H.R. 1691. This amendment will safeguard religious liberty, while also protecting other critical civil rights.

This Nation was founded on the conviction that all individuals have the right to the free and full expression of religion. The First Amendment to the Constitution has protected that right for over 200 years. Unfortunately, no court can be completely free of human error when interpreting the Constitution. Beginning with the 1990 Supreme Court decision in *Oregon Dept. Of Human Resources* v. *Smith*, religious expression has been subject to substantial and unnecessary restriction by governmental policies. Therefore, it is both necessary and appropriate for Congress to pass this legislation.

As drafted, however, H.R. 1691 could have the unintended consequence of eroding critical civil rights and undermining state and local statutes. Several states and municipalities have passed laws prohibiting discrimination in housing and employment due to marital status, pregnancy status, or disability. Unless amended, H.R. 1691 could undermine state laws and allow discrimination. A widowed mother or disabled individual should not be deprived equal access to housing or employment under the guide of ensuring religious liberty.

Mr. Speaker, I believe that the Nadler amendment prevents the preemption of state and local statutes, while affording religious expression the highest level of constitutional protection. I urge my colleagues to vote in favor of this crucial provision.

Mrs. MORELLA. Mr. Speaker, I rise in support of the Nadler amendment to the Religious Liberty Protection Act.

This amendment is exactly the same as the bill itself, except for some additional language which will clarify that the bill is not to be used as a blank check to override state and local civil rights laws.

The amendment tracks language in the Civil Rights Act and the Fair Housing Act. Small businesses and small landlords are exempted from compliance. At the same time, the amendment will prevent large commercial enterprises from avoiding compliance with laws affecting housing, employment, and public accommodation.

Basically, the amendment will assure that a landlord renting an apartment in his home may do so according to religious belief, while preventing the same landlord from discriminating on the basis of his or her religious beliefs in the rental of units in a large apartment building.

The Nadler amendment makes clear our intent to strengthen individual religious liberty without overriding state and local anti-discrimination laws. Support the Nadler amendment.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Pursuant to House Resolution 245, the previous question is ordered on the bill, as amended, and on the further amendment by the gentleman from New York (Mr. NADLER).

The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. NADLER).

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

Mr. NADLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 190, nays 234, not voting 10, as follows:

[Roll No. 298]

YEAS—190

Abercrombie	Gutierrez	Moore
Ackerman	Hastings (FL)	Moran (VA)
Allen	Hill (IN)	Morella
Andrews	Hilliard	Murtha
Baird	Hinchey	Nadler
Baldacci	Hinojosa	Napolitano
Barrett (WI)	Hoeffel	Neal
Becerra	Holden	Oberstar
Bentsen	Holt	Obey
Berkley	Hooley	Olver
Berman	Horn	Owens
Bilbray	Houghton	Pallone
Bishop	Hoyer	Pascrell
Blagojevich	Inslee	Pastor
Blumenauer	Jackson (IL)	Payne
Boehlert	Jackson-Lee	Pelosi
Bonior	(TX)	Pomeroy
Borski	Jefferson	Price (NC)
Boswell	Johnson (CT)	Rahall
Boucher	Johnson, E. B.	Rangel
Brady (PA)	Jones (OH)	Reyes
Brown (FL)	Kanjorski	Rodriguez
Brown (OH)	Kaptur	Roemer
Capps	Kelly	Rothman
Capuano	Kennedy	Roybal-Allard
Cardin	Kildee	Rush
Carson	Kilpatrick	Sabo
Castle	Kind (WI)	Sanchez
Clay	Kleczka	Sanders
Clayton	Klink	Sandlin
Clyburn	Kolbe	Sawyer
Condit	Kucinich	Schakowsky
Conyers	LaFalce	Scott
Coyne	Lampson	Serrano
Crowley	Lantos	Shays
Cummings	Larson	Sherman
Davis (IL)	Leach	Sisisky
DeFazio	Lee	Slaughter
DeGette	Levin	Smith (WA)
Delahunt	Lewis (GA)	Snyder
DeLauro	Lofgren	Stabenow
Deutsch	Lowey	Stark
Dicks	Luther	Strickland
Dingell	Maloney (CT)	Stupak
Dixon	Maloney (NY)	Tauscher
Doggett	Markey	Thompson (CA)
Dooley	Martinez	Thompson (MS)
Doyle	Mascara	Tierney
Engel	Matsui	Towns
Eshoo	McCarthy (MO)	Udall (CO)
Etheridge	McCarthy (NY)	Udall (NM)
Evans	McGovern	Velazquez
Farr	McKinney	Vento
Fattah	Meehan	Visclosky
Filner	Meek (FL)	Waters
Foley	Meeks (NY)	Watt (NC)
Forbes	Menendez	Waxman
Ford	Millender-	Weiner
Frank (MA)	McDonald	Wexler
Gejdenson	Miller, George	Weygand
Gephardt	Minge	Wise
Gilman	Mink	Woolsey
Gonzalez	Moakley	Wu
Greenwood	Mollohan	Wynn

NAYS—234

Aderholt	Barr	Berry
Archer	Barrett (NE)	Biggert
Armey	Bartlett	Bilirakis
Bachus	Barton	Bliley
Baker	Bass	Blunt
Ballenger	Bateman	Boehner
Barcia	Bereuter	Bonilla
Bono	Hayes	Quinn
Boyd	Hayworth	Radanovich
Brady (TX)	Hefley	Ramstad
Bryant	Herger	Regula
Burr	Hill (MT)	Reynolds
Burton	Hilleary	Riley
Buyer	Hobson	Rogan
Callahan	Hoekstra	Rogers
Calvert	Hostettler	Rohrabacher
Camp	Hulshof	Ros-Lehtinen
Campbell	Hunter	Roukema
Canady	Hutchinson	Royce
Cannon	Hyde	Ryan (WI)
Chabot	Isakson	Ryun (KS)
Chambliss	Istook	Salmon
Clement	Jenkins	Sanford
Coble	John	Saxton
Coburn	Johnson, Sam	Scarborough
Collins	Jones (NC)	Schaffer
Combest	Kasich	Sensenbrenner
Cook	King (NY)	Sessions
Cooksey	Kingston	Shadegg
Costello	Knollenberg	Shaw
Cox	Kuykendall	Sherwood
Cramer	LaHood	Shimkus
Crane	Largent	Shows
Cubin	LaTourette	Shuster
Cunningham	Lazio	Simpson
Danner	Lewis (CA)	Skeen
Davis (FL)	Lewis (KY)	Skelton
Davis (VA)	Linder	Smith (MI)
Deal	Lipinski	Smith (NJ)
DeLay	LoBiondo	Smith (TX)
DeMint	Lucas (KY)	Souder
Diaz-Balart	Lucas (OK)	Spence
Dickey	Manzullo	Spratt
Doolittle	McCollum	Stearns
Dreier	McCrery	Stenholm
Duncan	McHugh	Stump
Dunn	McInnis	Sununu
Edwards	McIntosh	Sweeney
Ehlers	McIntyre	Talent
Ehrlich	McKeon	Tancredo
Emerson	Metcalf	Tanner
English	Mica	Tauzin
Everett	Miller (FL)	Taylor (MS)
Ewing	Miller, Gary	Taylor (NC)
Fletcher	Moran (KS)	Terry
Fossella	Myrick	Thomas
Fowler	Nethercutt	Thornberry
Franks (NJ)	Ney	Thune
Frelinghuysen	Northup	Tiahrt
Gallegly	Norwood	Toomey
Ganske	Nussle	Traficant
Gekas	Ortiz	Turner
Gibbons	Ose	Upton
Gillmor	Oxley	Vitter
Goode	Packard	Walden
Goodlatte	Paul	Walsh
Goodling	Pease	Wamp
Gordon	Peterson (MN)	Watkins
Goss	Peterson (PA)	Watts (OK)
Graham	Petri	Weldon (FL)
Granger	Phelps	Weldon (PA)
Green (TX)	Pickering	Weller
Green (WI)	Pickett	Whitfield
Gutknecht	Pitts	Wicker
Hall (OH)	Pombo	Wilson
Hall (TX)	Porter	Wolf
Hansen	Portman	Young (AK)
Hastings (WA)	Pryce (OH)	Young (FL)

NOT VOTING—10

Baldwin	Gilchrest	Rivers
Brown (CA)	Latham	Thurman
Chenoweth	McDermott	
Frost	McNulty	

☐ 1425

Mr. COSTELLO and Mr. SWEENEY changed their vote from ''yea'' to ''nay.''

Mrs. JONES of Ohio changed her vote from ''nay'' to ''yea.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 306, noes 118, not voting 10, as follows:

[Roll No 299]

AYES—306

Aderholt	Etheridge	Larson
Allen	Everett	LaTourette
Andrews	Ewing	Lazio
Archer	Fletcher	Leach
Armey	Foley	Lewis (CA)
Bachus	Ford	Lewis (KY)
Baker	Fossella	Linder
Baldacci	Fowler	Lipinski
Ballenger	Franks (NJ)	LoBiondo
Barcia	Frelinghuysen	Lowey
Barrett (NE)	Gallegly	Lucas (KY)
Barton	Ganske	Lucas (OK)
Bateman	Gekas	Luther
Bentsen	Gephardt	Maloney (CT)
Bereuter	Gibbons	Martinez
Berkley	Gillmor	Mascara
Berry	Gilman	McCarthy (MO)
Biggert	Gonzalez	McCarthy (NY)
Bilbray	Goode	McCollum
Bilirakis	Goodlatte	McCrery
Bishop	Goodling	McHugh
Bliley	Gordon	McInnis
Blunt	Goss	McIntosh
Boehlert	Graham	McIntyre
Boehner	Granger	McKeon
Bonilla	Green (TX)	Meek (FL)
Bonior	Green (WI)	Menendez
Bono	Greenwood	Mica
Borski	Gutknecht	Miller (FL)
Boswell	Hall (OH)	Miller, Gary
Boyd	Hall (TX)	Mollohan
Brady (TX)	Hansen	Moore
Brown (FL)	Hastings (WA)	Moran (KS)
Bryant	Hayes	Moran (VA)
Burr	Hayworth	Morella
Burton	Hefley	Murtha
Buyer	Herger	Myrick
Callahan	Hill (IN)	Napolitano
Calvert	Hill (MT)	Nethercutt
Camp	Hilleary	Ney
Canady	Hinojosa	Northup
Cannon	Hobson	Norwood
Capps	Hoeffel	Nussle
Cardin	Hoekstra	Obey
Castle	Holden	Ortiz
Chabot	Holt	Ose
Chambliss	Hooley	Oxley
Clayton	Horn	Packard
Clement	Houghton	Pallone
Coble	Hoyer	Pascrell
Coburn	Hulshof	Pease
Combest	Hunter	Peterson (MN)
Condit	Hutchinson	Peterson (PA)
Cook	Hyde	Petri
Cooksey	Inslee	Phelps
Costello	Isakson	Pickering
Cox	Istook	Pitts
Cramer	Jackson-Lee (TX)	Pomeroy
Crowley	Jefferson	Porter
Cubin	Jenkins	Portman
Cunningham	John	Price (NC)
Danner	Johnson (CT)	Pryce (OH)
Davis (FL)	Johnson, Sam	Quinn
Davis (VA)	Jones (NC)	Radanovich
DeLay	Kanjorski	Rahall
DeMint	Kaptur	Ramstad
Diaz-Balart	Kasich	Regula
Dickey	Kelly	Reyes
Dicks	Kildee	Reynolds
Dooley	Kind (WI)	Riley
Doolittle	King (NY)	Rodriguez
Doyle	Kingston	Roemer
Dreier	Kleczka	Rogan
Duncan	Klink	Rogers
Dunn	Knollenberg	Rohrabacher
Edwards	LaFalce	Ros-Lehtinen
Ehlers	LaHood	Rothman
Ehrlich	Lampson	Roukema
Emerson	Largent	Royce
English	Latham	Ryan (WI)
Ryun (KS)	Souder	Udall (NM)
Salmon	Spence	Upton
Sanchez	Spratt	Visclosky
Sandlin	Stabenow	Vitter
Sawyer	Stearns	Walden
Saxton	Stenholm	Walsh
Sensenbrenner	Strickland	Wamp
Sessions	Stump	Watkins
Shadegg	Stupak	Watts (OK)
Shaw	Sweeney	Weiner
Shays	Talent	Weldon (FL)
Sherwood	Tanner	Weldon (PA)
Shimkus	Tauzin	Weller
Shows	Taylor (MS)	Whitfield
Shuster	Taylor (NC)	Wicker
Simpson	Terry	Wilson
Sisisky	Thomas	Wise
Skeen	Thornberry	Wolf
Skelton	Thune	Wynn
Slaughter	Tiahrt	Young (AK)
Smith (MI)	Toomey	Young (FL)
Smith (NJ)	Traficant	
Smith (TX)	Turner	

NOES—118

Abercrombie	Forbes	Owens
Ackerman	Frank (MA)	Pastor
Baird	Gejdenson	Paul
Barr	Gutierrez	Payne
Barrett (WI)	Hastings (FL)	Pelosi
Bartlett	Hilliard	Pickett
Bass	Hinchey	Pombo
Becerra	Hostettler	Rangel
Berman	Jackson (IL)	Roybal-Allard
Blagojevich	Johnson, E. B.	Rush
Blumenauer	Jones (OH)	Sabo
Boucher	Kennedy	Sanders
Brady (PA)	Kilpatrick	Sanford
Brown (OH)	Kolbe	Scarborough
Campbell	Kucinich	Schaffer
Capuano	Kuykendall	Schakowsky
Carson	Lantos	Scott
Clay	Lee	Serrano
Clyburn	Levin	Sherman
Collins	Lewis (GA)	Smith (WA)
Conyers	Lofgren	Snyder
Coyne	Maloney (NY)	Stark
Crane	Manzullo	Sununu
Cummings	Markey	Tancredo
Davis (IL)	Matsui	Tauscher
Deal	McGovern	Thompson (CA)
DeFazio	McKinney	Thompson (MS)
DeGette	Meehan	Tierney
Delahunt	Meeks (NY)	Towns
DeLauro	Metcalf	Udall (CO)
Deutsch	Millender-McDonald	Velazquez
Dingell	Miller, George	Vento
Dixon	Minge	Waters
Doggett	Mink	Watt (NC)
Engel	Moakley	Waxman
Eshoo	Nadler	Wexler
Evans	Neal	Weygand
Farr	Oberstar	Woolsey
Fattah	Olver	Wu
Filner		

NOT VOTING—10

Baldwin	Gilchrest	Rivers
Brown (CA)	Latham	Thurman
Chenoweth	McDermott	
Frost	McNulty	

□ 1442

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1691, the bill just passed.

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

There was no objection.

PROVIDING FOR THE CONSIDERATION OF H.R. 2490, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2000

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 246 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 246

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2490) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2000, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 or rule XCI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. The chairman of the Committee of the whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto of final passage without intervening motion except on emotion to recommit with or without instructions.

□ 1445

The SPEAKER pro tempore (Mr. PEASE). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MOAKLEY), pending which I yield myself such time as I may consume. Mr. Speaker, during consideration of this amendment, all time is yielded for the purpose of debate only.

Mr. Speaker, the legislation before us is an open rule providing for the consideration of H.R. 2490, making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President and certain independent agencies for fiscal