We ought to be able to be out tomorrow night by a reasonable time, about 8 o'clock possibly.

We should mention that in our proceedings tomorrow on the effective death penalty, there will be 6 hours in which we would consider amendments.

On Thursday, we would convene at 9 o'clock. We would have a limit on 1-minutes, and we would begin the discussion on prisons, and we could expect to go late Thursday night.

On Friday, subject to a unanimous-consent request, we would begin at 10 o'clock in the morning. We should be able to finish our discussion of the prison bill. The we would begin to attempt to finish the criminal alien deportation bill, trying to be out by 3. We will rise at 3 in any event on Friday and we may have to have a unanimous-consent request later on to facilitate that.

That would make it possible for us to convene the House at 2 o'clock next Monday and have a general debate that would allow Members to be sure they would not face a vote before 5 o'clock Monday afternoon. We would hope on Monday to finish the Criminal Alien Deportation act and begin local law enforcement block grants.

We should expect a late night next Monday. On Tuesday, we would convene at 11 o'clock and finish local law enforcement blocks grants, and Tuesday could be a possible late night.

Obviously, we have been receiving, I think, very good dialog, debate, and cooperation from all Members. Certainly the discussions between the leadership teams, not only in the committee and the minority leader's office as well as mine, have gone well. So let me just encourage the Members to know this represents what we consider to be a highly probable schedule outcome, and clearly we will try not to surprise anybody. I think the 3 o'clock departure on Friday is something they can by very certain about, and they can be quite confident they would face no votes before 5 on Monday.

With those comments, I would yield back.

☐ 1620

Mr. GEPHARDT. I thank the gentleman. I would just like to add some other items that we have been discussing. One was that we would like to be able to have an hour of general debate on the prisons bill by unanimous consent, if we can get it, on Wednesday. We would also hope to have the House convene at 9 a.m. on Friday and would be willing to agree to limit 1-minutes, if that would be helpful to get us started on that day at an earlier point.

Obviously, we have got to get some unanimous-consents to get rules up. We would like to finish the criminal alien deportation bill on Friday so that Monday could be dedicated to the law enforcement block grants, along with Tuesday. Obviously, we have to get a unanimous-consent. And we have to agree to the rule.

We would like to have open rules, but we are willing to agree to some time limits which we can talk among ourselves with the Committee on Rules about so that we can assure everyone that we can finish these bills when the gentleman would like to finish them on the schedule. But having an open rule and requiring us to discipline the amendment process would be a good way for us to proceed.

Mr. ARMEY. Mr. Speaker, if the gentleman will continue to yield, the gentleman is correct. I do need to correct my earlier statement.

On Thursday, the House will convene at 10 and there will be a limit on 1-minutes. And we will be asking unanimous consent presently for Friday, for the House to convene at 9.

Mr. GEPHARDT. I thank the gentleman.

HOUR OF MEETING ON FRIDAY, FEBRUARY 10, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent then when the House adjourns on Thursday, February 9, 1995, it adjourn to meet at 9 a.m. on Friday, February 10, 1995.

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

There was no objection.

PROCEDURE FOR CONSIDERATION OF H.R. 729, THE EFFECTIVE DEATH PENALTY ACT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the bill, H.R. 729, be considered in the following manner:

The Speaker at any time may declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 729) to control crime by a more effective death penalty, and that the first reading of the bill shall be dispensed with. All points of order against consideration of the bill shall be waived. General debate shall be confined to the bill and shall not exceed 1 hour, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate, the bill shall be considered for amendment under the 5 minute rule for a period not to exceed 6 hours. It shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute ordered reported by the Committee on the Judiciary, and all points of order against the substitute shall be waived. The committee amendment in the nature of a substitute shall be considered as having been read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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

There was no objection.

EXCLUSIONARY RULE REFORM ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 61 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 666.

☐ 1624

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 666) to control crime by exclusionary rule reform, with Mr. RIGGS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier, pending was amendment No. 3 offered by the gentleman from Michigan [Mr. CONYERS].

Is there further debate on the amendment offered by the gentleman from Michigan?

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

Mr. Chairman, I want to point out, first of all, that the amendment offered by the gentleman from Michigan, if enacted into law ultimately, allows for a good faith exception to the exclusionary rule. I understand the gentleman makes a distinction between how his amendment is worded and how H.R. 666 is now worded. I will address that in a moment.

But I want to point out that both H.R. 666 and the amendment of the gentleman from Michigan would codify in some form a good faith exception to the exclusionary rule. My point, obviously, is that if all constitutional rights are not going to come to an end under the amendment of the gentleman, which allows a good faith exception to the exclusionary rule, all constitutional rights are not going to come to an end under H.R. 666.

Let me more precisely address the difference between the amendment from the gentleman from Michigan and this bill.

Basically, though there is another exception in the gentleman's amendment, basically the gentleman's amendment would codify the Leon case which allows this good faith exception when there is a warrant used by a police officer and that warrant is later determined to be invalid. But the point

of our bill, H.R. 666, goes to what the previous speaker stated, before we resolved into the House of Representatives for other business, and that is, not every search requires a search warrant. There are a list of exceptions where a search can be perfectly legal just as an arrest can be perfectly legal without a search warrant.

The point we have here comes down to the same idea on a good faith occurrence. If in the course of a search an officer on an objectively reasonable basis believes that a search is legal without a search warrant, not an arbitrary basis, not a capricious basis, but a reasonably objective basis comes to that conclusion, it serves no purpose under the entire theory of the exclusionary rule, which is to deter misconduct by police officers, to at that point exclude the evidence.

That is why H.R. 666 is better as written than it would be as amended by the amendment of the gentleman from Michigan. That is why I urge rejection of that amendment.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words. I rise proudly in support of the gentleman's amendment.

Mr. Chairman, I want to have a colloquy with the gentleman from Michigan, because he is getting beat up here on the floor. The way I understand the gentleman's amendment is that it does absolutely nothing but codify the Leon decision, which we hear praised over there. But then when we offer it, we hear it attacked. So I am a little bit confused.

I also thought we got a little window into the fact that we were correct in that if we adopt H.R. 666 without the gentleman's amendment, what we are really saying is people can go around and do massive searches in neighborhoods or anything they want and if they come up with something, then they can go ahead and prosecute, that there really would be no reason to ever bother to get a search warrant in the future.

I have just heard the gentleman from Michigan's amendment being attacked around here, and I think it is only fair for the gentleman to have some time to explain it, because I, the way I read it, I have been reading it and reading it and it looks to me just like the codification of Leon decision.

Would the gentleman please answer?

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

Mr. CONYERS. Mr. Chairman, I am very happy that the gentlewoman has again put her finger on precisely what is in difference over this H.R. 666. Because we have now, and I think the other side will agree, we have all kinds of exceptions written into the exclusionary rule already.

□ 1630

This includes destruction of evidence, imminent danger to law enforcement officers, stop and frisk laws in automobiles, including trunks, which the police can stop. We have the fleeing felons exception. We have the plain view exception, where if we see illegal evidence or a stash of drugs and they are in plain view, or guns, the police officer is perfectly permitted to act.

However, what we do not have is an officer using his own objective, reasonable good faith to determine whether he should do something over and above these exceptions. Therefore, the gentlewoman is absolutely correct.

In Leon there was a writ given by the magistrate that turned out to be subsequently invalid. In that case, we said that the police officer operated in good faith, and therefore the evidence could be excluded.

However, what they are saying is, let us get rid of any warrants at all by the magistrate, and let us let the police officers' own reasonable good faith be the test. In other words, each law officer would become the judge under this exception, which is nowhere to be found in Leon.

Mrs. SCHROEDER. Mr. Chairman, the other thing I would like to ask the gentleman about is, when I was discussing this before, I said ''OK, if we do not pass the gentleman's amendment, and police officers can go around and search at will, then if they find something, they are not worth their pay if they cannot figure out some probable cause or something to cover it up.''

How do we as individuals then protect ourselves from unreasonable searches and seizures? Is the gentleman aware of any criminal prosecution in the United States that has ever gone on against any law enforcement officer anywhere, for illegally searching someone's home?

Mr. CONYERS. If the gentlewoman will yield again, Mr. Chairman, the whole idea of us not checking with a magistrate in the beginning and getting an OK, or using one of the exceptions, we will have then eviscerated the exclusionary law as it exists, because then there will not be any need. Every officer can use his own judgment.

Now whether somewhere in some jurisdiction in some State, some police officer, has been nailed, I cannot tell. All I am saying is, why do we not correct the problem on the front end, instead of waiting for some hapless citizen to have to go into court, and maybe years later it will be determined that the police officer was wrong?

Mrs. SCHROEDER. Mr. Chairman, I think the gentleman is correct. As I remember our hearings, we asked some of the prosecutors that showed up, some of the district attorneys, if they were aware of any cases in the court of law enforcement officers being prosecuted for illegally searching and seizing, and they said no, not to their knowledge, either.

The CHAIRMAN. The time of the gentlewoman from Colorado [Mrs. SCHROEDER] has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 5 additional minutes.)

Mrs. SCHROEDER. Mr. Chairman, the reason I feel so strongly about this is, the gentleman from Missouri was on the floor talking before about ATF being able to run through people's homes looking for guns. If they find nothing, then OK, that is the end of it. If they find something, then they go after the person.

That is a real invasion of our rights, as our forefathers knew them. I stand here as a person who the FBI came trooping through my house over and over with an agent named Timothy Redford.

When I first started running in 1972, we kept having break-in after break-in after break-in, and we really were terrified. We though they were trying to maybe kidnap the children, because we could not find anything that was missing. We could just see that they had broken in, through the window or through whatever, we had no idea what was going on. They were breaking into the cars. We saw nothing missing.

Many years later, under the Freedom of Information Act, I found that the FBI had hired this Timothy Redford to break into our house. The things that he had gotten at taxpayer expense was the fact that I belong to the League of Women Voters and I paid duesthere, the fact that I had been a Girl Scout, the fact that my husband was a lawyer.

These were incredible things. There were 50 pages of incredible revelations, that if he had ever come to my campaign office, we would have told him. However, the main thing he found was a campaign button that said ''Pat Schroeder: She wins, we win.'' He thought that was probably a Communist slogan, so therefore, he thought he had reasonable cause to go running through my house.

Mr. Chairman, granted, he found nothing illegal. My word, there is nothing in our house, unless dust kittens are illegal. We have those that weigh 10 tons. However, beyond that, I do not think there is anything illegal in my house, but if he had, under this amendment they could then prosecute. However, in the interim, as a citizen I have no recourse to that.

I really think one's home is one's castle. What we are doing without the amendment of the gentleman from Michigan [Mr. CONYERS] is saying there is a license for law enforcement people to go out and search and seize on anything, whether it is a campaign button or whether you look suspicious or whether you happen to live in a neighborhood that they think has a taint of crime or whatever. If they find something, you bet they are going to make a good case for why they do it, so why would they ever get a warrant?

The second point the gentleman from Michigan makes is, the courts have common sense. Guess what, these guys did not come to town on a turnip truck. Most of them have been prosecutors or defense lawyers before they sat on the bench, and they have allowed evidence to be accepted when it was in

plain view, when you were in hot pursuit, when there were all sorts of things that would make a reasonable exception.

Therefore, the question is, are we going to tear up the 4th amendment, or are we going to continue to believe that one's home is one's castle.

Mr. CONYERS. If the gentlewoman will continue to yield, first of all, the gentlewoman has revealed out of her own experience an absolutely shocking situation, as a Member of Congress and a distinguished person in her own State and the country, that this could happen to her.

Mr. Chairman, what about a citizen anywhere? Do Members know what their remedy would be? They would have to go get a lawyer, file a civil suit. They obviously are going to have to pay for it. It would be a long, protracted piece of litigation, and there are very, very few people that would have the well of the House of Representatives to make clear the kind of horror stories that could occur.

The average citizen is, in effect, without remedy if H.R. 666 would be applied, because this is what is happening without it. What this bill would do would be make it legal and permissible for an officer then to come before the court and say ''I used objectively reasonable good faith in trying to determine that we should break into the Schroeder house because we thought we might find something.''

Mrs. SCHROEDER. Mr. Chairman, reclaiming my time, I totally agree with the gentleman. I think one of the things that happens here is everybody sits around and says ''This could not happen to me.'' I must say, it was a very shocking day when I found out many years later what was happening. It can happen to anybody.

Mr. Chairman, there is absolutely nothing that says that times do not change or people cannot draw all sorts of deductions.

The gentleman from Virginia [Mr. SCOTT] had a very interesting dialog during the hearing with one of the witnesses talking about if they stopped his car and searched it on 395 and found nothing, did he have a recourse. The answer is no. That is why this amendment is so important.

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

Mr. Chairman, I rise in support of the bill and in opposition to the amendment.

Mr. Chairman, I just want to point out that the committee bill does not validate searches and seizures that are made in bad faith. The court will make that determination.

It seems to me under the scenario the gentlewoman just recited, she would have a great lawsuit. She is a lawyer, and her husband is a lawyer. I am sure they know lots of lawyers. They must consort with lawyers. I cannot imagine why a good, healthy lawsuit did not ensue. Police are sued every day. If they intrude, if they trespass, they have no more rights than anybody else.

However, Mr. Chairman, what we are talking about is a good faith arrest. I can conceive of a situation where two men are on the street with a policeman nearby and one of them pulls a gun. What he is doing is showing his friend his gun that he just bought, but the policeman thinks this is a holdup, jumps the guy with the gun, and in searching him, finds cocaine in his pocket.

Mr. Chairman, under the committee bill, that cocaine would be admissible in a trial. Under the exclusionary rule, it would not. Who is penalized by the exclusionary rule as it presently is employed? The people. The people are victimized, nobody else, just the people.

□ 1640

The principle of Leon is to be distinguished from the terms of Leon. Leon stands for the principle that there is nothing sacred about the exclusionary rule and if the law enforcement officer made a good faith effort to make a reasonable search and seizure, to be determined by an objectively reasonable standard, then the evidence shall not be suppressed.

Yes, it tilts toward the public, it tilts toward the victims of crime. It no longer tilts toward the accused. But what is more unjust than suppressing evidence that should lead to a conviction of a serious crime because of some technical difficulty? We are addressing that.

Any time they invade the gentlewoman's house again, I would like that case, and I would do it pro bono for the gentlewoman.

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

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

Mr. CONYERS. May I reacquaint the gentleman, because he is a distinguished member and chair of the committee, of the United States versus Watson, in which it has been held as inviolate law that arrests in public areas where there is probable cause does not require any warrant whatsoever.

Mr. HYDE. The key words are ''probable cause.''

Mr. CONYERS. When a person pulls a gun in the presence of a law enforcement officer, I say to the gentleman from Illinois [Mr. HYDE], he does not have to go to a magistrate to determine whether he can arrest him. He is also in imminent danger of his life, in addition. That is two requirements.

Mr. HYDE. Let us say he is hugging his wife and the policeman thinks that sexual harassment is going on in front of him. Incident to arresting or halting that, he discovers narcotics. I want that to go into evidence. You want it suppressed.

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

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

Mr. BERMAN. Is there any question but that pursuant to the lawful arrest and a search when you find evidence, when there is probable cause for the arrest, the search incident to the arrest, the evidence produced of another crime is admissible? I would like to know the case that excludes that evidence. If it is a search incidental to a lawful arrest, it is admissible. We do not need this bill for that.

Mr. HYDE. It would not be a lawful arrest if no crime were being committed and no crime was being committed in exhibiting the gun to his friend. There was no crime.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I do not quite understand. You can have a lawful arrest and then defend yourself. But it would be a reasonably lawful arrest, and then the person could present what was really happening. It is not like you can only arrest a person unless it is 100 percent proof in court, and under a lawful arrest, you are allowed to do a lawful search.

Mr. HYDE. But there could be an unlawful arrest, however, but made in good faith, under misapprehension of the facts, misapprehension even of the law. But if it is made in good faith as determined by the court under an objectively reasonable standard, then we have reached a crossroads. You want the evidence suppressed. We want the evidence admitted.

Mrs. SCHROEDER. If the gentleman would yield further, I still cannot figure out what an unlawful arrest would be unless you just saw someone walking down the street and arrested them.

Mr. BERMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, when the court originally came down with the exclusionary rule, it recognized that this is not a good rule in some abstract sense. It is forcing the exclusion of evidence which was seized which could show that an individual may have committed a crime. But they went through a whole process of pointing out that without this kind of rule, there was no other effective deterrent to unlawful searches and seizures, there was no other effective way of protecting an individual's fourth and fourteenth amendment rights to privacy and against unlawful searches and seizures.

If the proponents of this bill and the opponents of the Conyers amendment would propose a series or any remedy which was effective in protecting an individual and giving him some recourse against unlawful searches and seizures which would provide the kind of deterrent that would make those fourth amendment rights meaningful, I think everybody in this House would agree in a second to get rid of the exclusionary rule because of the problems with the exclusionary rule. But when the gentleman from Illinois talks about a lawsuit against the police, the evidence is

replete that for all kinds of reasons, the absence of demonstrating monetary damages, the time it takes, the difficulty in establishing any proof, civil remedies in the traditional courts against a policeman for an unlawful search are not effective. They are not a deterrent.

Surely within the context of discipline, statutory kinds of remedies, you might want to explore the possibility of providing an alternative that provides that kind of effective deterrent. But I have never heard the proponents of doing away with the exclusionary rule takes any serious time to try and create more effective remedies that would constitute that deterrence.

That was the very heart of what the court said when they came down with the exclusionary rule. In effect they said, ''We don't like it but we don't know how to provide a meaningful deterrent against unlawful searches and seizures without that rule.''

I suggest that if people would get together and try to come up with those effective remedies, there would be a much better approach towards doing this then keeping the exclusionary rule.

But so far no one who wants to do away with it comes up with effective alternatives. I think it is a big mistake.

I also want to make one other point. The difference between objective and subjective. I am happy to see the committee report spent some time clarifying the objective standard. But the fact is when you talk about what a police officer thought at the time, I would suggest these may be words but it may not have any real meaning. In the end, you may really be giving to the police officer the final decision on whether or not he thought that search was in good faith, and we will slide very quickly to the intent to provide an objective standard to the reality in the courtroom of a subjective standard which rewards a lack of knowledge about search and seizure law, it promotes and encourages not knowing the specifics of what is permitted and what is not permitted. I do not think it is a healthy standard to give real meaning to the fourth amendment protections.

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

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

Mr. CONYERS. I thank the gentleman from California for his discourse, because what he has revealed is this: We have almost a dozen exceptions that come to mind, including the one by the chairman of the Committee on the Judiciary who was not aware of the fact that a law officer does not have to go get a warrant or see a magistrate if someone in public pulls a gun out. That has been tested and is hard law.

But when we take the Leon case and all of the exceptions: stop and frisk, the fleeing felons, hot pursuit, plain view, good faith, arrests in public areas, what on Earth else do they want to be excluded from an exclusionary rule that would lead them not to support codifying Leon as this amendment of mine does, what other exceptions are they looking for?

What they are doing is only one thing in my judgment: Transferring the test of reasonable good faith from the magistrate to the police officer. That is the one limit that I cannot go to because it in effect eviscerates whatever else is left of the exclusionary rule.

Mr. BERMAN. If I may reclaim my time, I agree, and it does so without providing any effective alternative to protect that individual's fourth amendment rights.

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

Mr. Chairman, I rise to accomplish two purposes: First to congratulate the gentleman from Michigan for bringing the amendment to the floor, and then to announce that I will oppose that amendment.

Why do I congratulate him? It appears that the gentleman from Michigan is for the first time since I have been in the Congress espousing a return at least to sanity in the warrant search and seizure realm of the law enforcement and agrees through the proposition of his amendment that a good faith exception shall exist in the warrant arrest. That is a great departure from all that we have heard for 12 years in this Chamber, particularly from the colleagues of the gentleman from Michigan. But I congratulate him on doing that. Because we have come a long way, baby, if indeed you come and plead with the House to pass an amendment that would provide a good faith exception to a warrant arrest.

□ 1650

I am exorbitantly pleased at the gentleman's gesture, but at the same time, I want to tell the gentleman the second part and he may not want me to yield. I oppose the amendment because it goes against the purpose of the main bill, namely, to extend that good faith exception, that trust that we want to reside in the law enforcement officer when he acts in good faith in warrantless situations. We know that in several jurisdictions the warrantless good faith exception has already been installed in the intermediary Federal courts, and so, if we adopt the amendment of the gentleman, we would be, in effect, taking a step backwards from the upward march of the good faith exception in the warrantless situations, which has already been blessed by some of the intermediary Federal courts.

Mr. Chairman, nothing infuriates the public more than the spectacle of a criminal standing before the judge, facing his prosecutors and learning right there in open court that his case, where he was caught red-handed in a burglary, red-handed in an assault, red-handed in some heinous crime, to find that the judge dismisses his case right there in open court for the sake of a technicality that we have seen over and over and over again. That infuriates the American public in itself, and then doubles the fury when we see that criminal walking out of court, in effect literally and figuratively laughing at the judge, laughing at the prosecutor, laughing at the witnesses who testified against him, laughing at the system of justice, and perhaps encouraging him to commit the same kind of offense later, knowing, sophisticated criminal that he might be, that he can escape justice on a technicality.

What we are about here today is to put some fear of God in that criminal, and remove the technical release from the prison of the hardened criminal and to allow our law enforcement community in whom we have faith to bring about a sense of safety in the streets in a good faith exception to the exclusionary rule. That is not too much to ask.

Let us defeat the gentleman's amendment.

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

Mr. GEKAS. Having said that, I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, first of all I am always pleased to receive congratulations from my colleague from Pennsylvania with whom I have worked on these matters across the years.

May I remind the gentleman that intermediate court decisions are secondary at best to Supreme Court decisions on this subject. And that anybody that is caught red-handed would be brought within the exclusion to the exclusionary rule, known in the Supreme Court case as Washington versus Chrisman, where anything that happens criminally in plain view vitiates the need for any kind of a warrant.

Finally, could the gentleman give me one example where H.R. 666 would operate in a different way from the amendment that I have before the gentleman and which is current law?

Mr. GEKAS. Seizing back my time, I will be glad to prepare a white paper for the gentleman and outline it.

Mr. CONYERS. No; right here on the floor.

Mr. GEKAS. The issue at hand is whether or not we want to extend the good faith exception to the warrantless arrests. That is the issue.

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

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

Mr. CONYERS. Mr. Chairman, I thank the gentleman from Virginia for yielding.

What the gentleman from Pennsylvania has proved here today is he cannot tell us why he would change the existing law, which I am codifying by amendment in the Leon case. He does not have an example, because we have already given dozens of exceptions to the exclusionary rule and there is not one he can even make up now on the floor or ever that would justify what

they are trying to do to the exclusionary rule, and I thank my friend for yielding to me.

Mr. SCOTT. Mr. Chairman, the proposed Conyers amendment seeks to codify the 1984 Supreme Court decision in United States versus Leon, where the Court held that the exclusionary rule should not be used to bar evidence gathered by officers acting in a reasonable reliance on a search warrant issued by a magistrate but ultimately found to be improper. Although this amendment in and of itself dilutes the exclusionary rule, I support it for it does far less damage to fourth amendment rights than the bill before us and does not go further than what is already current Supreme Court case law.

On the other hand, Mr. Chairman, the underlying bill is a radical departure from established precedent and would radically extend the permissibility of warrantless searches. It would allow evidence gathered from warrantless searches to be admitted. Indeed, the Leon court explicitly states that it strongly prefers searches with warrants to warrantless searches, because the process of obtaining a warrant, that process by itself provides safeguards against improper searches.

Mr. Chairman, the fourth amendment allows the State to breach the individual's right to privacy only when the amendment's rules are followed.

As Justice Oliver Wendell Holmes said, the fourth amendment protects the individual's legitimate expectation of privacy—''the right to be let alone—the most comprehensive right and the right most valued by civilized man.''

The heart of the fourth amendment is the issuance of a warrant based on probable cause. In obtaining a warrant the police officer goes before a magistrate and shows that the totality of the circumstances indicate that there is evidence of a crime, in effect, that he has probable cause. The cost of conducting constitutional searches is not high. The process of obtaining a warrant is not cumbersome for police. It has been shown that a magistrate will take an average of 2 minutes and 45 seconds to approve a search warrant. The vast majority—over 90 percent—of warrant applications are approved. Police officers can even obtain a warrant over the telephone.

Critics of the exclusionary rule exaggerate its practical significance in the disposition of cases. They talk vaguely of enormous numbers of criminals walking because evidence either was or probably will be excluded. This argument is simply not supported by responsible statistical studies. Adherence to the fourth amendment and use of the exclusionary rule does not result in large numbers of criminals being set free. For example, a study by the Comptroller General's office found that suppression motions were granted in only 1.3 percent of Federal cases.

The leading commentator on search and seizure law has found that,

> . . . the most careful and balanced assessment of all available empirical evidence shows that . . . the cumulative loss in felony cases because of prosecutor screening, police releases and court dismissals attributable to the acquisition of evidence in violation of the Fourth Amendment is from 0.6% to 2.35%. (W. LaFave, ''The Seductive Call of Expedience: U.S. v. Leon, Its Rationale and Ramifications,'', 1984 Ill. L. Rev. 895, 913.

Historically, searches without warrants were judged unreasonable and illegal. Only under certain tightly defined circumstances were warrantless searches considered legal. Today, the basic rule holds. Warrantless searches are allowed only in the unusual circumstances, as the ranking Member, Mr. CONYERS, has indicated.

Mr. Chairman, H.R. 66 would allow so called good faith warrantless searches. This would mean the demise of the warrant process, and its attendant protection. Instead of a warrant issued upon probable cause, we would have good faith. The bill would mean that good police practice would be discouraged. It would be unnecessary for police officers to prepare an affidavit requesting a warrant from a neutral magistrate. The determination of whether probable cause exists would no longer be made before the search, as I believe is consistent with the letter and spirit of the fourth amendment. There would be after-the-fact determination of whether or not the police officers acted in so-called good faith.

There is no substitute, Mr. Chairman, for the fourth amendment. We know police officers will always be able to make up after-the-fact excuses for the search. The fourth amendment protects the innocent public from illegal searches. Police should not conduct illegal searches, they should not conduct illegal arrests. The exclusionary rule removes the incentives that they would have for such law breaking.

In summary, Mr. Chairman, the Conyers amendment maintains a balance to protect innocent people from illegal searches, and I urge the House to adopt it.

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

Mr. Chairman, I rise in strong opposition to this exclusionary rule, this move to enact H.R. 666. Mr. Chairman, as I sat in my office and listened to the debate, I must tell Members of this body that I became more terrified about this piece of legislation than I have been about any legislation that I have been asked to consider as a Member of this body since I was elected to this office representing the First Congressional District of Illinois.

Mr. Chairman, I believe that I am the only Member of this body to ever have been victimized by illegal search and seizure by a member of the police force in this Nation, the city of Chicago police force.

A little over 25 years ago, Mr. Chairman, there was an illegal search and seizure conducted by the Chicago Police Department within the city of Chicago.

□ 1700

As a result of that illegal search and seizure, admittedly illegal search and seizure by the Chicago Police Department, two individuals were killed, seven individuals were wounded. They also, the survivors of that particular raid in the city of Chicago, had the right to sue. They did sue. The county of Cook settled out of court, but it did not bring life back to the two individuals who were killed. That was December 4, 1969.

December 5, 1969, Mr. Chairman, my apartment was also raided illegally, supposedly in search of guns. They did not come with a warrant. They came with weapons pulled, weapons blazing. They shot my door down.

Fortunately I was not at the apartment. My family was not at the apartment at that time. They entered my apartment, did not find any weapons, but yet and still, they justified it, Mr. Chairman, Members of this body, by saying that they, in fact, did find contraband in my apartment; they did find a bag of what they identified at the time, a bag of marijuana in my apartment.

Mr. Chairman, upon further research and upon actions by my attorneys at the time, my attorneys took them to court, and in court they indicated that that bag of marijuana where they had shot my door down, guns blazing, threatening; had I been there, I would have been killed also, and my family would have been killed, wiped out totally, they found that that bag they called marijuana was nothing more than bird seed.

Mr. Chairman, Members of this body, there is no such thing as giving the police force exclusionary rights. Those individuals who are advocates of this particular measure, they can rush to judgment, they can rush to enacting this piece of legislation simply because of the fact that it might look good on their resume to their voters in their districts, it might sound good in terms of being politically correct, and that they are tougher than tough in regards to enforcing the laws of this Nation. It might sound like they are friends of the police departments, and we all understand that the police departments are under siege right now from a number of sources throughout the Nation.

But, Mr. Chairman, in human context, in human terms, this legislation in more instances than not would mean life and death for certain individuals, individuals who have been ostracized, cast aside by law enforcement officers and by the status quo.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. RUSH] has expired.

(At the request of Mr. CONYERS and by unanimous consent, Mr. RUSH was allowed to proceed for 3 additional minutes.)

Mr. RUSH. Mr. Chairman, I must say to you that although at the time, 25 or more years ago, a little over 25 years ago, back in the city of Chicago we felt

as though we had no friends. We felt as though the power of this Nation was coming down on our backs as young men who felt, young men and young women, who felt that we wanted to challenge the status quo.

I must say that it was Members of this body led by the distinguished gentlemen from Michigan who did come into Chicago, the Congressional Black Caucus, and put the skids, put the skids on the type of police atrocities and police violations of the law and police murder that was occurring in the city of Chicago, put the skids on that. They came in, and they conducted a hearing, and because they did focus national attention on what was happening in Chicago, police forces there backed up and subsequently were found, they admitted, that they had no legal grounds to murder two individuals, and so they had no legal grounds to come into my apartment to seize and to search and seize in my apartment and to charge me with a felony of which it was baseless. It was groundless. It was only an excuse, only an excuse, Mr. Chairman, to take my life away.

I must tell you that today that is the issue that is at stake for many, many Americans, whether or not we are going to have police forces throughout this Nation, any police force, given the arbitrary power for political reasons to invade someone's privacy, to invade their homes under the guise of arbitrary decisions that they want to make.

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

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

Mr. CONYERS. I want to commend the gentleman, because it takes a great deal of courage to go back into the past in very terrible times that were going on in Chicago, the Fred Hampton massacre and others, yourself who fought a very noble fight.

But is not it true that in cities like Chicago the police can go to a magistrate at any point 24 hours a day, 7 days a week; they are on duty, that for any reason whatsoever that they needed to go into your apartment or anybody else's, they could get a search warrant and if they had a reason, if they did not have a search warrant, they have all of these other exceptions that could have been used, and none of them apply to you?

The CHAIRMAN. The time of the gentleman from Illinois [Mr. RUSH] has again expired.

(At the request of Mr. CONYERS and by unanimous consent, Mr. RUSH was allowed to proceed for 1 additional minute.)

Mr. RUSH. Mr. Chairman, the gentleman's inquiry is absolutely correct. Right now in the city of Chicago, the police are authorized to go to any judge, be they a sitting judge or be they any other type of judge, they can go to a judge on a 24-hour basis, any judge within the city of Chicago, any judge within the county of Cook, any Federal magistrate. They can go to any judge and get a warrant to enter into anyone's home to search anyone's home or vehicle or whatever, their private possessions. They do have that authority at this moment in time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 138, noes 291, not voting 5, as follows:

[Roll No. 98]

AYES—138

Abercrombie	Gonzalez	Orton
Ackerman	Green	Owens
Baldacci	Gutierrez	Payne (NJ)
Barrett (WI)	Hall (OH)	Pelosi
Becerra	Hastings (FL)	Pomeroy
Beilenson	Hilliard	Poshard
Bentsen	Hinchey	Rangel
Berman	Hoyer	Reed
Bishop	Jackson-Lee	Reynolds
Bonior	Jefferson	Richardson
Boucher	Johnson, E. B.	Rivers
Brown (CA)	Johnston	Rose
Brown (FL)	Kaptur	Roybal-Allard
Brown (OH)	Kennedy (MA)	Rush
Bryant (TX)	Kennedy (RI)	Sabo
Cardin	Kennelly	Sanders
Clay	Kildee	Sawyer
Clayton	Kleczka	Schroeder
Clyburn	LaFalce	Schumer
Coleman	Lantos	Scott
Collins (IL)	Levin	Serrano
Collins (MI)	Lewis (GA)	Skaggs
Conyers	Lofgren	Slaughter
Coyne	Lowey	Stark
DeFazio	Maloney	Stokes
DeLauro	Markey	Studds
Dellums	Martinez	Stupak
Dicks	Matsui	Thompson
Dingell	McCarthy	Thornton
Dixon	McDermott	Thurman
Doggett	McKinney	Torres
Durbin	Meehan	Torricelli
Engel	Meek	Towns
Eshoo	Menendez	Tucker
Evans	Mfume	Velázquez
Farr	Miller (CA)	Vento
Fattah	Mineta	Visclosky
Fazio	Minge	Volkmer
Fields (LA)	Mink	Ward
Filner	Moakley	Waters
Flake	Mollohan	Watt (NC)
Foglietta	Nadler	Waxman
Ford	Neal	Williams
Furse	Oberstar	Wise
Gejdenson	Obey	Woolsey
Gibbons	Olver	Wynn

NOES—291

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

NOT VOTING—5

Allard	Gephardt	Yates
Frost	Hunter	

☐ 1726

On this bill:

Mr. Gephardt for, with Mr. Allard against.

Messrs. COSTELLO, BARCIA, and DICKEY changed their vote from ''aye'' to ''no.''

Mr. TORRES and Mr. GONZALEZ changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any further amendments?

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WATT of North Carolina: Page 2, line 13, strike all after the word ''States,'' and insert the following:

''provided that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.''

Mr. WATT of North Carolina. Mr. Chairman, Members of the House, this amendment would simply have the effect of providing that evidence could be admitted into court after a search and seizure providing that the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched.

☐ 1730

If this language sounds familiar to the Members of this body, it is the exact language of the fourth amendment of the U.S. Constitution.

I want to start by thanking my cosponsors of this amendment, Mr. DEFAZIO and Mr. FIELDS, for jointly sponsoring this. We believe in the Constitution of the United States.

Mr. Chairman, after I addressed the body in general debate and after I addressed the body on the balanced budget amendment, several of my colleagues have asked me why I get so excited about the Constitution of the United States.

They ask me, ''Why are you so conservative when it comes to the Constitution of the United States?''

I respond to them that we all bring our different perspectives to this body. We all bring our different histories to this body. We heard an eloquent example of this during the last debate from the gentleman from Chicago [Mr. RUSH].

My history is this: I learned the Constitution from a constitutional specialist, Robert Bork. My friends on the other side may understand that. They know him well, a very conservative gentleman. I also studied under Professor Emerson.

These two gentleman were at opposite ends of the spectrum. But one thing they believed vigorously in was the Constitution of the United States. And when I started practicing law, it was not surprising that the first jury trial that I handled called into question the first amendment provisions, because I was called upon to represent the interests of a group of native Americans who had been demonstrating against attending school with black kids. And despite the fact that I disagreed with them in what they were demonstrating about, I thought they had a right to demonstrate and to the protection of their first amendment rights.

Later my law firm was called upon to represent the Ku Klux Klan when they were demonstrating, and we also protected their rights to demonstrate under the first amendment, despite the fact that we disagreed with what they were demonstrating about.

So my commitment to the Constitution does not have anything to do with whether I agree with somebody or disagree with somebody. My commitment is to defend the Constitution. And when I took the oath in this body, my commitment to that proposition continued.

It is a conservative philosophy which I espouse. I love the Constitution of the United States. Even when it is not convenient for me to love it, I still think it needs to be defended and protected, contrary to some of my colleagues, apparently, in this body.

For over 205 years now we have had this sacred language in the fourth amendment of the Constitution. It says that people ought to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures. Today my colleagues come in with new language, trying to add some other language that they would have the Supreme Court go back and interpret for 200 more years.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WATT] has expired.

(At the request of Mr. WISE and by unanimous consent, Mr. WATT of North Carolina was allowed to proceed for 3 additional minutes.)

Mr. WATT of North Carolina. Mr. Chairman, it is my opinion that this bill is going to generate 200-plus more years of litigation, because the language justifying an objectively reasonable belief is no more precise than the language of the fourth amendment of the Constitution which exists currently.

My colleagues on the Republican side would have us believe that they can wave a magic wand and craft some language that is so clear, so crystal clear, that there will not be any litigation about it. But, my friends, the crafters of our Constitution drafted this language, and I would submit to you that my colleagues on the other side are no smarter than the drafters of the original Constitution and the Bill of Rights.

Mr. Chairman, I hope that we can fight to uphold the constitutional provisions. I do not know anybody in this body who can vote against this basic amendment. All it does is say we are going back to the fourth amendment of the U.S. Constitution. I hope anybody who will vote against this amendment will go home and look their constituents in the eye and say, ''I voted against the fourth amendment.''

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think everybody here needs to understand that though the gentleman may be acting quite in good faith, and I know he believes sincerely what he is doing, Members need to understand that this amendment guts the bill as it now is written altogether. While the gentleman is offering a provision of the Constitutional language that clearly is already there, and we might all want to say, ''Hooray, we are going to vote for that,'' what we have to realize is the gentleman is saying we are going to put it in a place in this bill that comes very early in the bill, after about three lines, and then strike the entire rest of the bill, H.R. 666, so there will be no good-faith exception for any purpose in this bill when it is done. All we will be doing is reproducing in bill form the fourth amendment to the Constitution.

In essence, it is another way of voting against this bill. If you want to vote the bill down, it is another way to proceed to do that.

It is demeaning, in my judgment, to the Constitution in the second order of things to go out and reproduce the Constitution or 1 of the 10 amendments in the Bill of Rights as a statute. It is in the most sacrosanct document we have. It is in our Constitution. I do not think it calls for any reproduction to ratify our belief in the Constitution in some statutory form.

So really there are two reasons to vote against this: If you believe, as I do very strongly, in wanting to reaffirm an exception to the exclusionary rule and expand that exception, which this bill does, to allow us to get more evidence in in search and seizure cases, and get more convictions and get away from technicalities letting people who have committed crimes off the hook, then you need to vote against this amendment.

☐ 1740

Because the amendment just does away with that possibility altogether. And by perhaps the interpretation somebody could place on it, it does not just do away with an expansion of that good faith rule, it is quite possible the Supreme Court would come in and say, ''aha, Congress has spoken and we have to do away with the good faith exception we have already carved out for cases where there are search warrants'' because we are presumably enacting this provision of the Constitution in conjunction with the debate we are having today and with language that talks about search and seizure evidence being admissible or not.

So I would submit to my colleagues on both sides of the aisle that this is a worse amendment than the preceding amendment we just voted down. This amendment goes further and potentially can destroy the entire concept of any exceptions to an exclusionary rule whatsoever. In other words, it could go all the way back and say, look, if there

has been any illegal search and seizure, even if done in good faith with a search warrant, it is out the window. Forget the Leon case. Forget any of those other cases.

I would urge my colleagues to defeat the amendment. It is offered, I know, in good faith, but it turns out to be very mischievous, guts this bill and should be defeated.

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

Mr. Chairman, I rise in support of the amendment and would respond to the previous speaker before me on the floor. The gentleman finds that somehow by substituting the exact wording of the fourth amendment to the Constitution, wording which the Supreme Court in its wisdom has interpreted and finds allows exceptions in cases of good faith with searches which involve warrants, the gentleman feels that by restating the fourth amendment that somehow we would overturn that judgment of the Supreme Court. That is an absurd argument.

The Supreme Court has rendered an opinion on these words previously and the Supreme Court has found a limited good faith exception in cases where warrants exist.

But what the other side would do here today is trash the fourth amendment to the Constitution by saying, no, even though the courts have not found exceptions in cases where there are warrantless searches, we feel that should happen. Or one gentleman mentioned some lower courts have found in some limited cases that warrantless searches might be acceptable. We have already talked at great length on this floor about where exceptions exist and have great precedent, and apparently there are perhaps some others coming up through the court. Let the Supreme Court render that judgment on the fourth amendment which has stood for more than 200 years.

Now, I perhaps suffer a disadvantage in this debate. I am not one of the many attorneys in the House of Representatives, but then again, nonattorneys outnumber attorneys still in this country, perhaps for a little while longer. Many of us are attached to the Bill of Rights in the Constitution, particularly the fourth amendment. And I believe that this goes to the issue of us being secure in our homes.

This is not about a drug deal on the street. It is not about two people hugging with a gun sticking out of their pocket or drugs in the park. It is not about that at all. It is whether or not someone, an officer of the law, has to spend 2 to 3 minutes on the telephone convincing a magistrate that they have probable cause before they kick down someone's door. I do not think that 2 or 3 minutes is an inconvenience. They already have many exceptions, when there is imminent threat, many exceptions when there is a crime in progress, many exceptions when they have a warrant.

But warrantless searches, broadly construed, are a threat to the security of the people of this country. And they certainly are a threat to the continued sanctity of the fourth amendment to the Constitution. So restating that amendment here in this law does not threaten the precedents and the exceptions that have been taken previously.

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

Mr. CONYERS. The gentleman is really saying that without the seven exceptions created by the Supreme Court, the Constitution still requires that one gets a warrant.

Mr. DEFAZIO. That is correct.

Mr. CONYERS. And what that means then is that the gentleman's bill itself will soon be rendered unconstitutional. And I think that this proposal, which repeats the fourth amendment, will likely stand.

Mr. DEFAZIO. And it would certainly reinforce the exceptions, the seven exceptions already created by the Supreme Court and allow any other exceptions to be heard upon their merits, particularly these lower cases we heard vaguely referred to earlier.

What we would not do is sanctify warrantless searches. I do not believe, as a layperson, in a body and before these many esteemed lawyers, that my constituents want to see this country move toward a system of warrantless searches. That is what this legislation before us would do.

I urge my colleagues to support this amendment. And if this amendment fails, to vote against 666.

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

Mr. Chairman, I rise in support of this amendment because it is an amendment that makes a lot of sense and is an amendment that this body should adopt.

Let me give Members a couple reasons why. The gentleman to my right mentioned that there were no constitutional problems with this bill as it is. But let me just read one portion of the bill that I find a very significant constitutional flaw with.

And that is on line 8, it starts by saying:

> Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment of the Constitution.

What this bill actually would do, this bill would basically make the fourth amendment of the Constitution moot. And I do not think that this body, first of all, has the legal responsibility nor the right to violate the Constitution by making an amendment of the Constitution moot. So, therefore, I think the bill in itself is unconstitutional, not to mention unconscionable.

We talk about this bill being a bill to deal with the criminals. The biggest criminal act is the passage of this piece of legislation. Because what we are doing to the poor citizen on the street, we are telling them that they have less rights. They cannot have a fourth amendment to the Constitution. They cannot have that protection, if a law enforcement officer chooses to knock their door down or to pull them on the side and search their belongings, go into their home and search their belongings without a warrant. I think that is simply unconscionable, not to mention unconstitutional. So I would urge the Members of this body to actually look at the Constitution before we pass this piece of legislation.

I mean, I am all for a contract for America, but I do not think a contract ought to be to dismantle the Constitution of the United States of America. So if we support the Constitution, the fourth amendment of the Constitution, and all of us as Members of this body, when we arrived here in January, all of us, each and every last one of us, raised our right hand and we said in no uncertain terms that we were going to abide by the laws of the United States of America, which includes the Constitution of the United States ofAmerica, so to come here and to undo the fourth amendment of the Constitution by taking the rights away from a citizen and say, under the guise that we are doing something about crime and we are being tough on crime, when some poor soul is sitting at home tonight, if the passage of this legislation, if this legislation passes tonight, some soul in the future sitting at his house, inside of his home, watching his television, some Rambo cop can bust down his door, search his belongings, go through all of his belongings and say that they have a constitutional right to do so because of this legislation, I think that is unconscionable.

I would urge the Members of this body to seriously look at what we are about to do. I do not think there is any member in this Hall that would want to pass a law that would take away a Member's constitutional rights, fourth amendment constitutional rights. And that is exactly what this bill would do.

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

Mr. Chairman, I am very concerned about the procedure here, because as I read this amendment, this is the fourth amendment to the Constitution. We are being asked, as Members of the House, do we or do we not support the fourth amendment. And I have taken this well before saying, I really thought that H.R. 666 repealed it, and here is a chance for us to now say, we are not repealing it, as the gentleman from Louisiana just said.

My real question is, can any Member vote against this? Because we are all sworn to uphold the Constitution. The fourth amendment is part of the Constitution.

□ 1750

I think parliamentary-wise, it is a very interesting question as to what

would happen if Members vote directly against a part of the Constitution. I do not think we have ever had that on the floor before, as long as I have been here.

Mr. Chairman, I wanted to ask the esteemed ranking Member, is this not absolutely the entire fourth amendment, all jot and tittle? This is it, is that correct?

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

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

Mr. CONYERS. Mr. Chairman, this is the fourth amendment to the Constitution. I have never remembered voting on it, Mr. Chairman, and what happens here is that the reason that he had to replace it in its entirety is that there is a great likelihood that the McCollum bill, as it is written, will subsequently be found unconstitutional itself, so we not only have our obligation to the Constitution, but we fortunately had this replaced from a provision I think is unconstitutional, and predict it will never stand court muster. Therefore, I support the gentleman as well.

Mrs. SCHROEDER. Let me ask the gentleman, too, Mr. Chairman, from his history, does the gentleman have any idea what happens if a Member of Congress takes the well and at the beginning of each session, pledges to uphold the Constitution? Does anyone know what happens if they do not vote to uphold the fourth amendment? What will happen if people vote against it?

Mr. CONYERS. Mr. Chairman, if the gentleman will yield further, this is the 104th Congress. The question has never arisen before. Let us all stay tuned.

Mrs. SCHROEDER. Mr. Chairman, I certainly hope everybody votes to uphold the Constitution. I think we have seen an awful lot of silliness, but one of the things every American says is their home is their castle, and your home is not your castle if anybody can come knock down the door any time they want without a warrant. This is one of the premises that our forefathers and foremothers felt very strongly about.

Mr. Chairman, I think if we do not stand for this, we do not stand for anything. The people who sent us here and thought we were sworn to uphold the Constitution, if we vote against this, Mr. Chairman, they are going to really wonder. They are going to really wonder, and I would not blame them at all if they wanted their money back for the salaries of the people that maybe had their fingers crossed when they took that oath. Mine were not.

Mr. Chairman, I will probably vote for this amendment, and I think the gentleman from North Carolina is to be complimented in reminding us all, let us stop this silliness with the contract and realize our real contract is the Constitution of the United States, that every Member of this body is pledged to uphold.

I thank the gentleman from North Carolina [Mr. WATT] for reminding us of that.

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

Mr. Chairman, I rise to echo what I have heard from the gentleman from North Carolina [Mr. WATT] and the distinguished gentlewoman from Colorado [Mrs. SCHROEDER]. I, too, remember the oath that the Members of this body took when we were sworn into this office.

I just went up to the Clerk's desk and asked the Clerk to allow me to refresh my recollection. We said:

> I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same.

This bill, Mr. Chairman, does not do that. In fact, in order to save this body in terms of our integrity, we must support the Watt amendment, because the Watt amendment reaffirms the fourth amendment to the U.S. Constitution. To vote against the Watt amendment is to vote against the fourth amendment to the Constitution. To vote against the Constitution is to violate the oath of office that each and every Member of this body took to uphold, to support, and defend that Constitution.

As the gentlewoman from Colorado [Mrs. SCHROEDER] so eloquently stated, our contract is the Constitution of the United States. Let us have a contract with and for America, not a contract on America.

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

Mr. Chairman, I feel a chill in the air this afternoon. I think we are about to see a very dark day in history of the United States of America, the beginning of the police state. I submit that historians looking back will write that America's liberty began to erode in 1995 when they undertook to substitute language for the fourth amendment.

Mr. Chairman, I think one of the great fears that the science fiction writers write about is the black-clad storm troopers that break through your door, seizing whatever they might, seizing your personal items. That is the modern-day version of what our forefathers in the fourth amendment were afraid of.

Today, Mr. Chairman, I believe if the majority prevails we are about to undertake the beginning of that scenario.

That is not a question of whether we trust police officers. As an attorney, I represented police officers and I know them to be hard-working, dedicated public servants, but I also know from their own mouths that they are not above making conscious mistakes. I also know that there are instances in which they go beyond the bounds of the law.

My statement is not to indict police officers, Mr. Chairman, I am here to commend them, but rather to say that the protections contained in the fourth amendment were designed to protect the most precious group of people in this society, more precious even than police officers; that is, the U.S. citizenry.

Therefore I say, Mr. Chairman, today, that this could be a very dark day in the history of the United States when we suspend the rights so dearly protected in the fourth amendment, and in its place allow individuals to state what they thought they were doing, what they wanted to do, what they intended to do, rather than provide what the Constitution provides, that the people shall be secure, secure in their person.

Mr. Chairman, I urge the adoption of the Watt amendment.

Mr. INGLIS of South Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, two things I think we should point out. One is that we are not talking about here a rule that goes back to the foundation of the Constitution. In fact, as I understand it, it first appeared in 1914, and then the exception, good faith exception, appeared in 1984, so we are not talking about the founding documents.

The second thing I think is important to point out is that we are not talking about here some sort of an abuse of process. What we are talking about simply is the ability of police officers and prosecutors to use material seized in good faith, in this case with a warrantless search.

I think it makes a whole lot of sense. It makes a whole lot of common sense to the American people. I do not see any violence being done to the fourth amendment.

I do, however, see some violence being done every time we would have some kind of an issue on the floor that we would put up for a vote a piece in the Constitution. I suppose that means that if we get into a debate on last year's crime bill, somebodycould have arisen and suggested that we reiterate the words of the second amendment.

It does not really make much sense to go around reiterating in statute form the words of the Constitution. I am very happy to affirm those words, because they are very meaningful, but it really does not have much legal significance to affirm those words by statute.

That is to demean the Constitution of the United States, because it is not a statute. It is not amendable here on the floor of this House, but only by the people of this country after two-thirds vote here and three-fourths of the States ratify it.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. INGLIS of South Carolina. I am happy to yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, I just simply wanted to inquire of the gentleman from South Carolina whether he agreed with the

gentleman from Florida [Mr. MCCOLLUM] that this amendment guts the bill by putting in the provisions of the fourth amendment, which is the Constitution.

Is it the gentleman's opinion that, as the gentleman from Florida has expressed, that it guts the gentleman's bill?

Mr. INGLIS of South Carolina. Mr. Chairman, reclaiming my time, I would say to the gentleman, I really cannot figure out exactly what the amendment does, to tell the truth. The legal significance of the amendment is an absurdity, really. It is from the Constitution. I just see it as a legal absurdity.

Mr. WATT of North Carolina. Mr. Chairman, if the gentleman will yield further, I do not know how this could be an absurdity unless the fourth amendment itself is an absurdity. The words speak for themselves. They say exactly what the fourth amendment says.

It seems to me that preserves the Constitution, not denigrates the bill.

Mr. INGLIS of South Carolina. Reclaiming my time, Mr. Chairman, I would simply say to the gentleman from North Carolina, it just does not make sense to go around restating in statute form the words of the Constitution of the United States. It is as though we have to shore up the Constitution.

I do not see any need here to shore up the Constitution. The Constitution is the Constitution, regardless of what we do here on the floor today. We cannot amend it here on the floor. I know, as somebody involved in the term limit effort, it is hard to amend the Constitution of the United States.

We do not need to, by simple statute, do something that really has no legal effect. It is just to repeat the words of the fourth amendment.

□ 1800

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

Mr. INGLIS of South Carolina. I am happy to yield to the gentleman from Florida. I believe he wanted to have some further words about this.

Mr. MCCOLLUM. Mr. Chairman, I do want to reiterate what I said earlier. I do think this does gut the bill. I think it guts it for the simple reason it strikes out three-quarters of the bill. It takes out the good faith exception that we tried to put in the bill. It is as simple as that.

It is not that there is anything wrong with the Constitution or any of the language that the gentleman is offering. It is that what it does in the process is just strike after the word ''States'' everything there that talks about a reasonable and objective standard for making an exception to the exclusionary rule that will let us get more evidence in and get more convictions. So that is why I am opposed to the amendment, and I certainly understand there are Members on the other side that think somehow this whole exclusionary rule debate is going to violate the fourth amendment and do away with it. It does no such thing.

The particular provisions we are proposing today have been in existence for quite a number of years in two Federal circuits, and I have never heard anybody come forward and complain that there has been some unreasonable search and seizure, the police have been abusing this in those jurisdictions. That covers quite a number of States, 14 or 15 States.

It is just not practical to continue to have two of the circuits on one path and the rest of the country on another on the rules of evidence in this country when we need to get more evidence in to get convictions. These technicalities are killing a lot of our police officers' efforts and the prosecutors' efforts to get convictions.

I do not see why we should allow an amendment like this one that would just totally wipe out the bill, and that is what it does.

The CHAIRMAN. The time of the gentleman from South Carolina [Mr. INGLIS] has expired.

(On request of Mr. WATT of North Carolina and by unanimous consent Mr. INGLIS of South Carolina was allowed to proceed for 1 additional minute.)

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. INGLIS of South Carolina. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, it seems to me the only way one could conclude that this guts the bill is to say that the rest of the bill is somehow inconsistent with the fourth amendment. I am wondering whether that is what the gentleman from Florida is saying, because that is the only way I could see the actual language of the fourth amendment being inconsistent and gutting the rest of the bill, if the rest of the bill is somehow inconsistent with the fourth amendment.

Mr. INGLIS of South Carolina. Mr. Chairman, reclaiming my time if I may, before I yield to the gentleman from Florida I would say this is the only reason it would. I would say to the gentleman from North Carolina we are making positive progress here and the gentleman simply goes back to restate law that is actually the constitutional law and, therefore, he obliterates all of the forward progress. I think that is fairly obvious as to why this would gut the bill. We are not making any forward progress.

The CHAIRMAN. The time of the gentleman from South Carolina [Mr. INGLIS] has again expired.

(On request of Mr. MCCOLLUM and by unanimous consent Mr. INGLIS of South Carolina was allowed to proceed for 1 additional minute.)

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

Mr. INGLIS of South Carolina. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I think the gentleman from North Carolina over here is making a point about something that is misleading in a sense. I know he does not intend it to be. The truth of the matter is, all of us believe in the fourth amendment, all of us believe in the Constitution, and there is nothing that I would not do to embrace it. If we had a vote out here tomorrow to say BILL MCCOLLUM, vote for the fourth amendment, I would be in there saying I would certainly vote for it. I cannot imagine anybody who would not vote for it.

But that is not what the gentleman is asking us to do. He is asking us to wipe out the bill in the process of voting for the Constitution. It is not inconsistent on our part to say heck, we do not want to do that. The Constitution stands free and clear in its own right. We do not disturb it. But we want to modify a rule of court that has been used for a number of years in certain ways to patrol this constitutional right. That is all we want to do. We do not want to wipe out the right, and I thank the gentleman for yielding.

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

Mr. Chairman, the debate that we have been hearing on the other side of the aisle strikes me, frankly, as rather absurd to be arguing that the only way to protect the fourth amendment, which the gentlemen on the other side of the aisle claim is their desire and their goal here, that the only way to do that is to codify it in statute. Really, as the gentleman from South Carolina said, it demeans the Constitution itself by taking something that is the highest law of the land, codified in the Constitution itself, and we have to put it into statute in order to give it meaning. That is absurd.

But the debate has reflected on something that is important, and that is language in the fourth amendment. Lost in a lot of this debate here is the notion that the fourth amendment contemplated that there would be searches and seizures. It was never the intent of our Framers that there would not be searches and seizures conducted in support of law enforcement and to protect the public welfare. It was contemplated that there would be warrantless searches and seizures subject to the standard of reasonableness, and that is precisely what this proposal in H.R. 666 does. It says that that standard of reasonableness is codified in the Constitution itself and shall apply, shall apply.

What this proposal in H.R. 666 would do, which I support, and which the amendment proposed by the gentleman from North Carolina would undo, is to provide a standard of reasonableness explicitly set forth in statute to give further meaning, to give further focus, to the fourth amendment of the Constitution of the United States. That is what the people have a right to expect under their Constitution, and to play these games of smoke and mirrors by saying the only way we can address

this problem is by gutting H.R. 666 and taking the amendment that we already have in the Constitution and codifying it, does a disservice to the debate which we have been trying to have here today.

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

Mr. Chairman, I just wanted to add a note of caution to all of those who are watching this debate and hope that throughout this land that Americans are going to watch very carefully how these votes get cast on this amendment, because what is in jeopardy here and now in this Congress is the very fabric and moral standing of our land written into the Constitution. That is the notion that Members of the U.S. Congress could not stand enthusiastically and embrace the fourth amendment, that they could not embrace the amendment offered by the gentleman from North Carolina, who simply asserts the wording of our Constitution which says we grapple with this issue about illegal searches, that we could be guided by that language, and I think that it sends a wake-up call to all of America.

I heard a Member of the other body say the other day that there have been in total some 75 amendments offered to the Constitution just since January 4. We have a group of Members who have come to Washington who on the one hand profess to support the Constitution, but on the other hand are trying in a wholesale fashion to change the very makeup of that Constitution, not just through constitutional amendments, but through other statutes and other attempts such as the one before us. I hope that we as Members of the U.S. Congress forget the contract for a minute and remember our oath to protect and stand in support of the Constitution and support the Watt amendment.

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

Mr. Chairman, they are quoting the sanctity of the Constitution, and I was just looking through the Bible at Revelations. I would like to quote:

[13] And I saw a beast rising out of the sea, with ten horns and seven heads, with ten diadems upon its horns and a blasphemous name upon its heads. And the beast that I saw was like a leopard, its feet were like a bear's, and its mouth was like a lion's mouth. And to it the dragon gave his power and his throne and great authority. One of its heads seemed to have a mortal wound, but its mortal wound was healed, and the whole earth followed the beast with wonder. Men worshiped the dragon, for he had given his authority to the beast, and they worshiped the beast, saying, ''Who is like the beast, and who can fight against it?''

And the beast was given a mouth uttering haughty and blasphemous words, and it was allowed to exercise authority for forty-two months;

□ 1810

Skipping over,

It works great signs, even making fire come down from Heaven to earth in the sight of men; and by the signs which it is allowed to work in the presence of the beast, it deceives those who dwell on earth, bidding them make an image for the beast which was wounded by the sword and yet lived; and it was allowed to give breath to the image of the beast so that the image of that beast should even speak, and to cause those who would not worship the image of the beast to be slain. Also it causes all, both small and great, both rich and poor, both free and slave, to be marked on the right hand or the forehead, so that no one can buy or sell unless he has the mark, that is, the name of the beast or the number of its name. This calls for wisdom: Let him who has understanding reckon the number of the beast, for it is a human number, its number is 666.

Mr. Speaker, I think this says it more than anybody else. It limits the authority to 42 months which is approximately 2 years, and the beast is named 666, and I say this is the beast we are dealing with today.

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

Mr. Chairman, I rise in opposition to the so-called Exclusionary Rule Reform Act and support the Watt amendment. I talked to cops about what do we do on crime. My brother was a police officer, and I tell you that this is not on their minds. It is not the exclusionary rule or giving the Miranda warning.

What is on their minds is guns, police-killing bullets, and assault weapons.

If we want to spend that time in this House making life safer and easier for cops, we should continue the work we have done to take more weapons off our streets.

There are few things that we do in Washington that have worked so well as the exclusionary rule. It has passed the test of time for eight decades. Moreover, the Supreme Court has created one good-faith exception, in cases where an independent magistrate issuing a warrant has made a mistake, but the court, which is not known as a shrinking violet when it comes to crimes, has refused to expand exceptions like this for 10 years.

The exclusionary rule has improved police procedures, making them constitutional and fair.

This issue is a red herring, and the statistics bear this out. Only 1.37 percent of all evidence is thrown out in Federal cases.

Let us defeat this bill. In addition to being an assault on the Constitution, this is a waste of time and another gimmick. If I may again reiterate and re-quote just what the fourth amendment says, namely, that we are to be protected against unreasonable searches and seizures, that they shall not be violated, and no warrants shall be issued but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the person to be seized or things to be seized.

Mr. Chairman, nothing could be clearer, and to say that a warrantless search is not in violation of this Constitution is ludicrous.

Let us support the Watt amendment. Let us preserve the right to be secure in our homes. Let us guarantee all Americans by our Constitution.

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

Mr. Chairman and Members, I rise in opposition to the Exclusionary Rule Reform Act and in support of the Watt amendment.

I am inspired to speak here because I heard one gentleman, the gentleman from South Carolina, say that we should not be quoting the Constitution. We would be a lot better off it, instead of reading the Contract on America in this body every day, that we would simply quote the Constitution, remind ourselves of what this magnificent document is all about. It begins, as you know, ''We the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.''

Now, let us understand what was happening at that time and the history that we should never forget. When the citizens of Great Britain decided to leave, they left because of oppression and tyranny. They left because they simply wanted a quality of life that would provide them with some freedom and justice so that they could feel secure, and when they left to establish in the new land, they were invaded. They were imposed upon. They were violated. Their homes were broken into. Not only were they overtaxed, they were simply mistreated. They could not pursue justice, freedom and equality.

And they said, ''We are going to establish a Constitution. We are going to establish in this new land a document that will protect us from tyranny.''

Now, those of us who are involved in this body who are forever about the business of exporting democracies around the world, we are appalled, as we were appalled in South Africa at the fact that people's homes could be invaded, that whole towns could be torn down, that at any time of night or day the police could ride into an area, beat the people, dismantle their homes, literally invade them.

This Constitution protected us from this kind of invasion and violation. This document that set out to establish freedom, justice and equality, perfected by the Bill of Rights and the amendments, the first 10 amendments to the Constitution, simply said we will not allow people to be violated in the fashion that they were violated when they left their mother country.

These were not blacks. They were not Mexicans. They were basically people

who had left Great Britain. They kind of all looked alike.

But let me tell you, it does not matter whether you are black, white, green or any other color, if you find yourself in a situation where those who are ruling, those who are in power are so egotistical or so disrespectful or so unmindful of the fact that we all deserve the right to be free and they decide to move in your town or in your community a corrupt police force, corrupt elected officials, if they decide they are going to walk into your home, they are going to invade your property, they are going to violate the most precious of that that can be violated, the sanctity of the home, you allow them to do this when you mess around with this Constitution this way.

You will see a number of African-Americans on the floor today. You may wonder, ''Why are so many African-Americans in this Congress so concerned about this exclusionary rule?'' Well, we were not there when those who were fleeing the tyranny of Great Gritain were being violated, but we were there as slaves. We were there when our doors were kicked down. We were there when children were grabbed away from their families, when people were sold into slavery, violated, and so we feel this very deeply. We understand this. We do not want anything to violate the fourth amendment of the Constitution.

This is not about some game we are playing. This is not about some political posturing. This is about protection of human and individual rights for the people, and the Constitution defends that, and it guarantees that.

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

Mr. Chairman, I rise in strong opposition to this amendment. This amendment is not about tampering with the Constitution. We are not doing that in any way, shape, or form here.

And this is poor legislative procedure to take language that is already law, consecrated law in our Constitution, and attempt to substitute it in a bill. All that has the effect of doing is abandoning to the Supreme Court our responsibility to interpret the Constitution.

Certainly the Supreme Court has that responsibility, and they have a whole history of cases determining what the fourth amendment means. But we are entitled to pass legislation so long as it is in compliance with that Constitution, and this language simply adds to that interpretation that the Supreme Court already has and creates a good-faith exception so that criminals do not get off on technicalities.

□ 1820

All we are saying here is do not allow somebody who is guilty of a crime to evade conviction because of a police officer who acted in good faith, and everybody's constitutional right is protected because the judge will have the discretion and it can be taken up on appeal as well. The judge will have the discretion to determine whether or not the individual police officer was acting in good faith. If he finds he was not, the evidence is excluded. But if he was acting in good faith, not intentionally depriving anybody of their rights, the evidence should be brought in and the criminal should be convicted and put in prison. That is what their bill is about. That is why the amendment should be defeated and the bill passed.

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

Mr. Chairman, as Americans we should be devoted to the Bill of Rights. The Bill of Rights and our respect for the Bill of Rights is what has kept our country free for over 200 years. The fourth amendment to our Constitution is part of our precious Bill of Rights. Today in America we are legitimately worried about crime. As the mother of two young children I know how much I worry about their safety. I worry that unless we do the right thing our country will be an even more dangerous place by the time they are adults.

But even as we worry about crime we cannot worry less about freedom and the freedom guaranteed by our Bill of Rights. Because of our concern about crime the operation of the exclusionary rule which protects the fourth amendment has been increasingly narrowed over the past years by the Supreme Court. Police can act in emergencies, police are excused under the Leon ruling when they execute a faulty warrant in good faith. This lets the police do their job.

But H.R. 666 goes further than that. The fourth amendment is not in our Constitution to protect the guilty, it is there to protect innocent regular Americans. It is to prevent the government from coming into your home whenever they want to. It is to protect the American people from big government that would intrude on our privacy. H.R. 666, if it is constitutional, would allow the government to intrude on our privacy without having an impartial magistrate review the situation. That is why, as the mother of two little children, I will vote for the fourth amendment offered by Mr. WATT. I worry about my children's freedoms, freedom from the fear of crime is something I want for them. But I also want them to enjoy the freedoms that Americans have always had to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures.

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

Mr. Chairman, may I engage the Chair of the subcommittee, Mr. MCCOLLUM?

Mr. MCCOLLUM. I would be delighted to.

Mrs. CLAYTON. I would like to know, and I have heard repeated, and I have to believe that you and others believe that in your bill you do not intend to violate the Constitution, you certainly do not intend to give up unconstitutional language being in conflict with the fourth amendment.

Mr. MCCOLLUM. The gentlewoman is completely correct.

Mrs. CLAYTON. Well, help me understand then. If this language is inserted would it not go to perfect that very intention that if you do not intend, anything motivating to annihilate the Constitution particularly the fourth amendment, why then, although it may be redundant, why not allow this language to be there that says without any ambiguity that the fourth amendment is to be upheld? Why not allow this language to be there?

Mr. MCCOLLUM. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentleman from Florida.

Mr. MCCOLLUM. I thank the gentlewoman for yielding.

Mr. Chairman, I have no objection to that language particularly. What I object to is what would be stricken from the bill by the amendment that the gentleman, Mr. WATT, has offered. If you look at his language——

Mrs. CLAYTON. Is he not substituting the fourth amendment?

Mr. MCCOLLUM. He is substituting the fourth amendment for the language in the bill. Thereby he eliminates efforts we are making to modify the evidentiary rule that the Supreme Court has carved out for search and seizure cases under the fourth amendment.

Mrs. CLAYTON. Would not the Constitution be superior language to what the gentleman has codified?

Mr. MCCOLLUM. If the gentlewoman would yield further, it would not be superior in the sense—it is superior in any event to anything the court would do—but we have to interpret the Constitution for purposes of deciding whether to admit evidence or not. That is, we are not modifying the Constitution in any way, we are simply providing a modification to a Supreme Court rule made in 1914 to police the police. It was their decision to create this rule of evidence. They did not modify the Constitution when they created it.

And they came along and said we are going to change our rule because we think it is too harsh, what we did in 1914, back in 1984. And they said, what we have before us is a search warrant case, and we think the police in that case really acted in good faith.

They thought it was a good warrant, it turns out that it was not a good warrant. We do not think there is any reason to exclude the evidence that they got. There is nothing to be gained by this, because we are not going to deter their conduct. So we want to simply expand that.

Mrs. CLAYTON. Reclaiming my time: What I want to know is why not allow this amendment to stand because it seems to achieve what the gentleman wants. The gentleman wants to

convince us that nothing he has is inconsistent with the fourth amendment. And if that is true, whether it is redundant or not, it simply would reaffirm his intention.

Mr. MCCOLLUM. If the gentlelady would yield further, it would not reaffirm my intention because what we have in the bill is not a recodification of the fourth amendment. The fourth amendment would exist and we cannot change it here on the floor of the House in any event. It exists whether we pass the bill here or not. All we are modifying is a rule of evidence. If you pass the fourth amendment as a substitute for the rule of evidence modification then the existing rule of evidence will continue to exist unmodified. We want to change it. We do not want to leave it up to the Court. The court right now is determining the rules of evidence in this area.

In Federal Rules of Procedure on Evidence we want to say—we have the right to do that in the Congress and that is all we want to do. We want to say to the court, instead of you doing it, we want to do it.

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. I thank the gentlewoman for yielding to me.

Mr. Chairman, the gentleman's, my friend's explanation is a little disingenuous. This is the mother of all warrantless searches that we have before us and will ultimately, I predict, be found unconstitutional because we put the objective reasonable good faith in the police officer, not in the magistrate. And that is the fatal flaw. So we have the gentleman from North Carolina [Mr. WATT] with a constitutional provision replacing it with what I predict will be an unconstitutional amendment.

Mrs. CLAYTON. Let me raise one question: Does the gentleman believe then if this was put in there that it would gut his bill, the Constitution would then be nullified?

Mr. MCCOLLUM. If the gentlewoman would yield further, yes, it would, because it strikes the bill.

Mrs. CLAYTON. But does that mean that the Constitution nullifies the gentleman's bill?

Mr. MCCOLLUM. No. If the Constitution exists it is going to exist whether my bill is passed or not; it does not nullify the bill. But if you pass a provision that strikes what is in the bill, that is what nullifies it. I think we can add to the Constitution if we want to add it to the bill, it would not nullify it. But by striking the language in the bill you have provided us with a provision which does not leave our provision standing.

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

Mr. Chairman, I rise in opposition to the Exclusionary Rule Reform Act, H.R. 666, which has heretofore in this debate been referred it as the mark and the number of the beast. And while I rise not to impugn the integrity of any Member of this body or never felt intentions, I do rise to talk, as I must, about what I consider to be the misguided wisdom of this act. In an effort to correct a wrong we are imposing, in my opinion, an even larger wrong. In the years that I have been a Member of this body, with all due respect, I never felt more violated.

And I would suspect that people who are now watching this debate and those who in years yet to come will read it will feel just as violated also. And would ask as many are asking at this hour: What have we come to? And what have we become?

□ 1830

In an effort to punish the guilty, Mr. Chairman, we are ignoring our sworn obligation to protect the innocent, and someone, Mr. Chairman, rose earlier in this debate in a brash, and rash and unconscionable way and argued that the debate was almost without merits and that the debate on this side of the aisle was, in that person's opinion, absurd.

Well, the real question becomes then: Is it absurd to protect the public welfare as we know it? Is it absurd to protect the sanctity and the security of one's home against unreasonable search and seizure? Is it absurd to enshrine the words of the fourth amendment in the bill that we're about to vote on?

I would argue and submit, Mr. Chairman, that the absurdity is not in the effort to correct the wrong. The absurdity is in the folly that protects the wrong.

This bill renders the fourth amendment mute. It simply says it no longer, for all intents and purposes, exists, and if that assumption is wrong, then why not enshrine the words of that amendment in this bill so that we underscore and underline for all to see our intention to protect and uphold the fourth amendment of the Constitution of the United States, a Constitution that every Member of this body 6 weeks ago swore to protect and defend against all enemies, foreign and domestic?

Few people will remember what we say here today, but all will remember what we do, and I would urge Members of this body, in supporting the amendment offered by the gentleman from North Carolina [Mr. WATT] to understand our mission is to protect the innocent and to take to heart the words that we are sworn to uphold and to protect the Constitution that has protected us even against ourselves.

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

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

Mr. MCCOLLUM. Mr. Chairman, I would like to say we would be happy to add the fourth amendment to the end of the bill. We would have been happy to accept on this side the gentleman from Michigan's published amendment No. 1 that would say, had he offered it, nothing in this section shall be construed so as to violate the fourth article of amendments to the Constitution of the United States.

We would be happy to do that because we do not think anything we do does that, and we have no intention of doing so, and I understand the gentleman's sincerity in what he has to say. It is just a concern that I have that, instead of doing that, this particular amendment eliminates the bill, the underlying bill. It is not simply added on.

Mr. MFUME. Mr. Chairman, I thank the gentleman from Florida for his words.

Mr. Chairman, I yield to the bill's sponsor to respond to the suggestion by the gentleman from Florida [Mr. MCCOLLUM] that he would be happy to add the words.

Mr. WATT of North Carolina. Mr. Chairman, nobody has proffered any language to me that they would be interested in being supportive of, and I would be happy to look at it and consider whatever language they are proposing. But right now the amendment speaks for itself.

Mr. MCCOLLUM. Mr. Chairman, if the gentleman would yield, I would just like to point out that the amendment I suggest is what the gentleman from Michigan [Mr. CONYERS] has published as his first amendment in the RECORD, in the CONGRESSIONAL RECORD, and we would be glad to accept that in lieu of what the gentleman is offering, if that would be something he would want to do.

Mr. WATT of North Carolina. Mr. Chairman, I would be happy to take a look at it and, while the next speaker is speaking, see if we can get together on some language.

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

Members on both sides of the aisle, Mr. Chairman, I think are genuine in their concerns, and I think also that Members on both sides of the aisle often feel that there are too many laws that protect the criminals and not enough for those that are persecuted, and that is the victims. Who supports the exclusionary rule? Gestapo storm troopers? No, it is all of our local law enforcement agencies and the district attorneys. Why? Because often, too often, Mr. Chairman, those criminals are let back out onto our society because of small technical reasons.

We are not taking a look to storm into people's houses. We are looking where there is evidence found on good faith that that evidence can be used in a court of law. That is not unreasonable.

Some of the same Members that are fighting for the fourth amendment, we fought desperately for the same rights under the second amendment. We said, ''Let's force and let's put minimum mandatory sentences on those that violate the law using a weapon, any kind of a weapon, and not go against the

law-abiding citizens.'' But yet our voice was muted on that issue, and I am sure it will be muted again. We do not want to let criminals go on technicalities.

I would ask Members on both sides of the aisle to look at the items in which we can really strengthen a crime bill, habeas corpus. We had a gentleman named Alton Harris in San Diego that shot two boys and then ate their hamburgers, he spent 14 years habeas corpus after habeas corpus on death row, but yet many of the same Members will fight against that. We need to go after the criminals and protect the innocent in those kinds of things.

I had three Russian generals in my office, and they said that the No. 1 right that they value in the new Russia today is to own private property and those rights, but I see it violated time and time again on this floor, and I would say to the gentleman that quoted The Beast, ''Many of us consider Damien was killed on November 8.''

PARLIAMENTARY INQUIRIES

Mr. FIELDS of Louisiana. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FIELDS of Louisiana. Mr. Chairman, since we are about to vote on this measure, I have a question: Since this bill that is before us modifies the Constitution to some degree, would this not call for a two-thirds vote of the House?

The CHAIRMAN. The simple answer is no. The amendment before us is not a constitutional amendment.

Mr. FIELDS of Louisiana. A further parliamentary inquiry, Mr. Chairman:

My inquiry was on the bill and not the amendment.

The CHAIRMAN. The Chair will issue the same ruling:

This is a bill and not a constitutional amendment.

Mr. FIELDS of Louisiana. A further parliamentary inquiry, Mr. Chairman:

The bill precisely says that evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the grounds that the search or seizure was in violation of the fourth amendment.

How is that not, Mr. Chairman, making the fourth amendment of the Constitution moot or at least revising it?

Mr. CHAIRMAN. The gentleman is not stating a parliamentary inquiry. He is raising a question of constitutional law.

That is a matter for the House to decide.

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

Mr. Chairman, in light of the comments of the last speaker, I would simply note that the purpose of the Constitution is not to protect the guilty. The purpose is to protect the innocent. What we are talking about here is the power of agents of the government to search the homes of American citizens and to seize the property of American citizens, and the amendment offered by the gentleman from North Carolina [Mr. WATT] gives us an opportunity to choose between the language of H.R. 666 drafted by the gentleman from Florida or the language reflecting the fourth amendment of the Constitution of the United States drafted by Thomas Jefferson and James Madison.

□ 1840

I know it is a close call, but, pardon me, I am going to stick with the old fellows.

I would also like to remind Members, in light of the comments made by the previous speaker, of the words of Sir Thomas More in the play ''A Man for All Seasons.'' More was having a discussion with his son-in-law about the power of the king and the power of law, and his son-in-law said, ''I would strike down every law in England to get at the devil.'' To which Sir Thomas More replied, ''And when the devil turned round on you the laws all being flat, where would you be then? I would give the devil the benefit of law for my own safety's sake.''

And that is really what we are talking about here today, whether or not we will stand by the constitutional privileges laid down by the Founding Fathers that protect American citizens from the occasional and regrettable excess of the use of power by their own Government or by the representatives of that Government.

I find it quaint indeed that in the name of conservatism we seem to have conservatives in a wide variety of measures taking actions which in fact give great additional power to the State, be it in this language that is being provided today in H.R. 666, or be it in the line item veto amendment by which we transfer huge pieces of authority to the White House, or be it in some of the other portions of the contract that are about to come before us.

So as I said beginning my remarks, I do not think the gentleman from North Carolina need apologize for bringing the words of Thomas Jefferson and James Madison to this floor. Frankly, if I looked out on this floor and saw an awful lot of people that reminded me of Thomas Jefferson or reminded me of James Madison, I might be willing to entertain this language. But, frankly, when I look out on the floor, I find precious few.

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

Mr. Chairman, I am here because I heard the debate on this issue, and I have to tell you that the fourth amendment is not just words to me, it is protection, real protection.

Let me tell you what it is like to live in a country which has no fourth amendment.

I lived in South Africa, in fascist South Africa, and my mother was a fighter for justice and for truth. And she lived in fear, constant fear, that her home might be invaded, that papers might be taken out of context and used in trials by the government against people who believed in justice. And in South Africa, they longed for the fourth amendment, Mr. Chairman. They longed for that protection.

Our police must be given the tools to fight crime, but it is our citizens who must be protected, in their homes, in their lives, and in their beliefs.

Ms. JACKSON-LEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in the committee we talked about not juxtaposing the rights of victims against those of us who would think that freedom is equally as important. We sought to strike a chord to bring legislation forward that would fairly respond to the needs of victims and the apprehension of criminals, but yet recognize the Constitution of the United States.

For over 80 years since the Supreme Court's decision in Weeks versus United States, the mandates of the fourth amendment have been enforced through the application of the exclusionary rule, that prevents illegal searches and seizures. It is not broken; it is working.

The Constitution stands alongside the exclusionary rule. This proposed legislation without the amendment of the gentleman from North Carolina [Mr. WATT] does damage to the Constitution and the sanctity of the Supreme Court's affirmation of the exclusionary rule's application to the fourth amendment.

Mr. Chairman, it is important that as we have our children view high-technology movies like the Last Action Hero, that they not view this as today's America; that they know that the Constitution protects their home,protects their privacy, protects their rights. I think we need not move into the 21st century believing that we are nothing but a movie, simply seeing strangers around the country knock in our doors.

Mr. Chairman, that is not your average law enforcement officer. They are law abiding. They have easy access to getting warrants based on probable cause. They seek such warrants, they arrest people, they get convictions. Why tamper with something that is not broken? Why not stand for the Constitution that clearly says that our citizens have rights? In particular when we talk about minority citizens, people who are seeking an opportunity to work cohesively with law enforcement, but yet acknowledge the fear sometimes of the intrusion on their private rights.

Let us not dismantle what we are trying to build, a sense of confidence and comfort, that the Bill of Rights, the Constitution of the United States protects them too, protects those who are new immigrants, protects those who do not speak the language, protects those who live in inner-city neighborhoods. It is important that we include all Americans, and that it is

not in conflict with law enforcement or protecting all citizens.

Mr. Chairman, I would ask for support of the Watt amendment, because I believe the fourth amendment clearly states the purview of where we need to go. It protects those who have been victims, it protects those who are law enforcers, and it protects the rights of law abiding citizens. It is the Constitution. It is something to be supported, recognized and respected.

I rise to support the Watt amendment.

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

Mr. Chairman, in listening to the comments of some Members here as ardent defenders of the Constitution, and we heard the Founders invoked, one would think the exclusionary rule is written into the Constitution. Yet I challenge anyone to show me where in the Constitution that exists, because in point of fact it does not exist. It was a creature of the court beginning in 1914 and applicable to the actions of the Federal Government, and it was not until I believe 1964 in the infamous Miranda case that it was applied to State and local agencies. It was simply an example of judicial legislation, the type that has done such great violence to the Constitution that we should all revere.

Mr. Chairman, I strongly believe in the Constitution, and I believe that this creation, the exclusionary rule, has subjected innocent men, women, and children to be the victims of crimes, and the perpetrators of those crimes have gone free in some instances because of the doctrine of the exclusionary rule. When violent crimes and homicides have shot up hundreds of percent since 1960, it is time that we, the people's representatives, set a proper balance, and that balance is the good-faith exception to the exclusionary rule.

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

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

Mr. DOOLITTLE. I yield to the gentleman from Virginia.

Mr. BATEMAN. Mr. Chairman, I appreciate the gentleman yielding, and I would like to echo his refrain. I have the utmost regard for those who favor the exclusionary rule as a means of enforcing or implementing the fourth amendment. I respect your view. But it is necessary to point out, as the gentleman just did, that almost none of the Constitution is self-enforcing. It has to be enforced by a rule.

□ 1850

The courts have chosen to try and enforce it in this instance by the exclusionary rule. There are some of us who feel as deeply as our colleagues that this is not the appropriate way to enforce the fourth amendment. I would only add that the ultimate, almost, insult to the Constitution of the United States is for those of us here, elected for 2-year terms, to demean the Constitution of the United States by deigning to place the language of the Constitution in a mere statute that we enact.

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

Mr. Chairman, the exclusionary rule is not, as was just pointed out, written into the Constitution. It was enacted in effect by the courts in a series of decisions starting in 1914. The courts have observed, the Supreme Court has observed many times, it is the only effective means that has ever been discovered to enforce the guarantees against unreasonable searches and seizures that are in the fourth amendment. It is the only means that we have ever found which makes the words of the Constitution guaranteeing the people the right to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures to be effective in the real world.

Mr. Chairman, the Supreme Court of the United States has said in construing the fourth amendment that the exclusionary rule shall not apply where you have a search warrant and there is good faith asserted. But it still applies where good faith is asserted but there is no search warrant, not even a search warrant. They did not even go before a magistrate to get a warrant to show probable cause why they should search this person's home or possessions or seize his property.

This bill would eliminate the exclusionary rule there, too. It would say that even when you have no search warrant, you can go to somebody's house, break into the house, search his papers, seize his effects, seize the papers, and assert that you believed you were in good faith, that you had constitutional right to do that.

In effect, it removes any real limits on the power to search and seize.

Mr. Chairman, if you look at the history books, one of the chief grievances that caused the Revolutionary War was the issuance by the British authorities of writs of assistance, search warrants, and they were trying to enforce legitimate revenue-collection laws. They issued writs of assistance which said anybody must assist this officer in searching this house or that place for anything. James Otis and Sam Adams and John Adams thought this was tyranny, and what this bill would do is to recreate the same effect as the British writs of assistance.

We are, in the name of trying to have law enforcement, so widening the exceptions here that we have no effective protection for our own liberty in our own homes.

''A man's home is his castle'' is an ancient maxim of the English common law which we inherited. The writs of assistance issued by the British authorities were invasions of that. It was felt to be tyrannical, one of the leading causes of the Revolution in this country against Great Britain. We have forgotten all this, and we are recreating the writs of assistance by this bill, except, even with the writ of assistance, you had to go before a magistrate and describe—you did not have to describe what you were looking for, that was one of the problems, but you had to describe why you were looking for something.

With this, you do not need a warrant. You do not go before a magistrate, you simply break into somebody's house, seize whatever you want to seize, and then assert that you, in good faith, believed mistakenly that you had probable cause.

Mr. Chairman, this restores—it makes even worse what we rebelled against in 1775. The Watt amendment, by putting the words of the fourth amendment into this bill, which the Supreme Court has construed to permit an exception to the exclusionary rule only when there is a warrant, would put back that construction and would limit the exceptions to the exclusionary rule to where it is now, and would prevent it from being so widened as this bill would otherwise do as to recreate even worse the situation that we rebelled against in 1775.

For the protection of our liberty, I urge that this amendment be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. WATT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 121, noes 303, not voting 10, as follows:

[Roll No. 99]

AYES—121

Abercrombie	Fields (LA)	McCarthy
Ackerman	Filner	McDermott
Baldacci	Flake	Meehan
Barcia	Foglietta	Meek
Becerra	Ford	Menendez
Beilenson	Furse	Mfume
Berman	Gejdenson	Miller (CA)
Bishop	Gibbons	Mineta
Bonior	Gonzalez	Mink
Boucher	Green	Moakley
Brown (CA)	Gutierrez	Mollohan
Brown (FL)	Hall (OH)	Nadler
Brown (OH)	Hamilton	Neal
Bryant (TX)	Hastings (FL)	Oberstar
Clay	Hefner	Obey
Clayton	Hilliard	Olver
Clyburn	Hinchey	Owens
Coleman	Jackson-Lee	Pastor
Collins (IL)	Jefferson	Pelosi
Collins (MI)	Johnson, E. B.	Rangel
Conyers	Johnston	Reed
Coyne	Kaptur	Reynolds
de la Garza	Kennedy (MA)	Richardson
DeFazio	Kennedy (RI)	Rivers
DeLauro	Kennelly	Rose
Dellums	Kildee	Roybal-Allard
Dicks	Kleczka	Rush
Dingell	LaFalce	Sabo
Dixon	Levin	Sanders
Durbin	Lewis (GA)	Sawyer
Engel	Lofgren	Schroeder
Evans	Maloney	Schumer
Farr	Martinez	Scott
Fattah	Matsui	Serrano

Skaggs	Thornton	Waters
Slaughter	Torricelli	Watt (NC)
Stark	Towns	Waxman
Stokes	Tucker	Woolsey
Studds	Velazquez	Wynn
Stupak	Vento	
Thompson	Visclosky	

NOES—303

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

NOT VOTING—10

Archer	Manton	Ward
Chapman	McKinney	Yates
Frost	Moran	
Gephardt	Payne (NJ)	

☐ 1911

The Clerk announced the following pair on this vote:

Mr. Gephardt for, with Mr. Manton against.

Mr. WISE and Mrs. LOWEY changed their vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. MCCOLLUM. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HANSEN) having assumed the chair, Mr. RIGGS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 666) to control crime by exclusionary rule reform, had come to no resolution thereon.

GENERAL LEAVE

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 665 and H.R. 666.

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

There was no objection.

PERMISSION FOR CERTAIN COMMITTEES AND SUBCOMMITTEES TO SIT ON TOMORROW DURING THE 5-MINUTE RULE

Mr. HORN. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule; Agriculture; Commerce; Economic and Educational Opportunities; Government Reform and Oversight; House Oversight; International Relations; Judiciary; National Security; Resources; Science; and Transportation and Infrastructure.

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

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

Mr. WATT of North Carolina. Mr. Speaker, reserving the right to object, I have consulted with the minority leadership, and they have advised me that notwithstanding the fact that this is contrary to the rule which prohibits voting in committee without being there, and contrary to the House rules, we are in agreement to it.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

[Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. KOLBE] is recognized for 5 minutes.

[Mr. KOLBE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FATTAH] is recognized for 5 minutes.

[Mr. FATTAH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. GUTIERREZ] is recognized for 5 minutes.

[Mr. GUTIERREZ addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

INCREASING THE MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, the gap in income is growing between those who have a lot of money and those who have a little money. That is unacceptable in a stable and strong economy. According to Business Week, the income gap ''hurts the economy.''

Almost half of the money in America is in the hands of just 20 percent of the people. That top 20 percent is made up of families with the highest incomes. The bottom 20 percent has less than 5 percent of the money in their hands.

A modest increase in the minimum wage could help the bottom 20 percent, and it will not hurt the top 20 percent.