

put it forward, and then loses it because somebody else decides to put his name on it, seems to me unfortunate. But if the gentleman insists that that is what the rules allow, I suppose that is what happens.

Mr. DELAY. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I recognize that that is what the rules allow. If the gentleman wishes to object, let him object.

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

Mr. DELAY. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

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.

□ 1156

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 on Tuesday, February 7, 1995, the amendment offered by the gentleman from North Carolina [Mr. WATT] had been disposed of and the bill was open for amendment at any point.

Are there further amendments to the bill?

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

Mr. Chairman, I do not rise at this time to offer an amendment. I rise to comment on apparently a news broadcast that occurred last night with respect to the bill, H.R. 666. I cannot tell my fellow Members where this news report took place. I did not see it. But I received some calls this morning which indicated that there was some rendition of what we were doing on the House floor yesterday and today with respect to this good faith exception to the exclusionary rule.

I think, Mr. Chairman, that it is just important to make a point here, and that is, we are proposing to make and broaden an exception to the exclusionary rule which already exists in law. Apparently, the reports were that we are trying to repeal legislatively the entire exclusionary rule, as it was enunciated by the U.S. Supreme Court, first in Federal cases in 1914 and, second, as applied to the States in 1961.

I certainly acknowledge, Mr. Chairman, that, and anyone could tell it

from some of the remarks that were made, that there are Members on our side who feel that the entire exclusionary rule should be repealed. There may even be, though we have not heard from them, I would not be surprised if there are Members on the other side who believe that, too.

There is always the argument that no matter how evidence was seized that, if it points to guilt, it should be used. I do not personally share the view of repealing entirely the exclusionary rule. I think the point that the Supreme Court made in the Mapp versus Ohio opinion of 1961 was also important.

In that case of a total disregard of constitutional protections based upon search and seizure, the Supreme Court said, we have tried everything else, now we will try to suppress evidence as a means of encouraging law enforcement officers to comply with the fourth amendment, which we do place on them through the fourteenth amendment.

PARLIAMENTARY INQUIRY

Mr. COLEMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Will the gentleman from New Mexico [Mr. SCHIFF] yield for a parliamentary inquiry?

Mr. SCHIFF. I yield to the gentleman from Texas.

Mr. COLEMAN. Mr. Chairman, I thank the gentleman for yielding to me.

My inquiry, Mr. Chairman, is to get an understanding of what place we are in the procedure before the committee. Is it correct that any of us could now rise and seek recognition in order to speak on the overall issue of the exclusionary rule or the fourth amendment or the bill, H.R. 666, without dealing with an amendment? In other words, any of us could now rise and speak on the issue?

The CHAIRMAN. That is correct. The bill is open to amendment at any point under the 5-minute rule.

Mr. COLEMAN. But this is not an amendment.

The CHAIRMAN. The gentleman from New Mexico [Mr. SCHIFF] was recognized and was proceeding for 5 minutes.

Mr. COLEMAN. But not on an amendment, am I correct?

The CHAIRMAN. The gentleman from New Mexico has offered a pro forma amendment.

Mr. COLEMAN. I thank the Chair.

□ 1200

Mr. SCHIFF. Mr. Chairman, as indicated, I am not offering an amendment at this time. I have just sought recognition on the 5-minute rule, and I will conclude in a moment here.

Mr. Chairman, I just want to point out exactly where we are. I understand that there are Members who may still, because they so indicated, oppose this particular bill, H.R. 666. I just wanted to emphasize what this bill does and what this bill does not do.

This bill does not repeal legislatively the entire exclusionary rule, or anything even that comes close to it. Speaking for myself, I would not support a bill that would entirely repeal the exclusionary rule.

I think the Supreme Court had a logic in saying that there was a reason to exclude evidence in certain cases that they enunciated, I thought very well, in the Mapp versus Ohio decision of 1961. Rather, we are taking an exception to the exclusionary rule which already exists. It has already been stated by the Supreme Court in the Leon case.

In that case the Supreme Court said that where police officers make an honest error, a good-faith error, that in that particular case it made no sense under the theory of the exclusionary rule, under the theory of trying to motivate law enforcement logic, to suppress that evidence.

We take that a little bit further. In the area of searches without a search warrant, and there are legal searches without a search warrant, a search warrant is not required under constitutional law for every search, any more than it is required for every arrest. There can be arrests without a warrant.

My point is that we are making an extension of an exception that already exists, and I just want to conclude by saying that we are not repealing the entire exclusionary rule, and further, we are not broadening the exception that much.

I understand that Members, when we get to final passage, will vote yes or no as they see fit, but I just wanted to explain exactly what we were doing.

AMENDMENT OFFERED BY MR. CONYERS

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

The CHAIRMAN. The Chair would ask the gentleman, is this an amendment that has been printed in the RECORD?

Mr. CONYERS. This amendment has not been printed in the RECORD, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS: Page 3, line 14, strike the close quotation mark and the period which follows:

Page 3, after line 14, insert the following:

“(d) LIMITATION.—This section shall not apply with respect to a search or seizure carried out by, or under the authority of, the Bureau of Alcohol, Tobacco, and Firearms.”.

Mr. CONYERS. Mr. Chairman, this amendment is offered by myself, the gentleman from Missouri [Mr. VOLKMER], and the gentleman from Michigan [Mr. DINGELL].

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

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

Mr. VOLKMER. Mr. Chairman, I wish to take this time to thank wholeheartedly the gentleman from Michigan [Mr. CONYERS] for offering this amendment on my behalf.

I will not take a lot of time because I will let the gentleman from Michigan go back, and then we will take a couple hours, three hours to debate this. I would just like to have plenty of time.

Mr. Chairman, I would like to point out that the gentleman from Michigan [Mr. CONYERS] has offered this amendment on my behalf because of what I heard on the Republican side earlier today, this morning, that one of their Members on the Committee on the Judiciary may, may supplant my opportunity to offer this amendment by offering it themselves, or offering a similar amendment or something that has changed.

As a result of that, and not knowing what was going on on the Republican side, and whether they were going to do it or not to do it, as a result, in order to preempt them, I asked the gentleman from Michigan [Mr. CONYERS] to join with me in this amendment, which he has been willing to do so that we at least have the opportunity on this side to offer our amendment.

Mr. Chairman, I hate to see, I really do, this type of activity, because I do not believe this type of activity is very conducive to comity in this House and the running of this House.

In my 18 years, Mr. Chairman, in my 18 years I have never known of anybody in our party after an amendment has been noticed, an amendment had been notified and people have all been notified, that Members of the other party, this party, when the minority party has done that, no Member, no Member ever in 18 years has ever said We may offer an amendment ourselves to preempt you the right to offer that amendment.

Mr. Chairman, what is going on? I thought just yesterday we started out and we had good comity. The gentleman from Texas [Mr. ARMEY], their leader, had been able to work with our leader and people and work out the time frames on these crime bills. Then they come up with some little dig like this.

Mr. Chairman, I think it is really beneath anybody as a Member of this House to come up with such a strategy. It is childish, immature, and I cannot understand their leadership and whoever came up with that strategy at all. I am really disappointed that some people on that side would even think of doing such an insidious tactic.

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

Mr. Chairman, I want to say, although it is certainly true that the gentleman from Missouri [Mr. VOLKMER] has worked on this amendment for quite some time, I want to say that the accusations of some kind of insidious kind of motivations I think go past where the situation calls for.

The fact of the matter is that we are proceeding under an open rule. This, of course, among other things, means that unlimited amendments can be offered. Those of us who are presently monitoring this bill on the majority

side, speaking especially of myself at this moment, have a grave reservation about the gentleman's amendment, despite the fact that a great deal of information has come out that is very questionable, I am sorry to say, about the Bureau of Alcohol, Tobacco and Firearms, which I hope will be explored even further through the committees of this House.

I want to say that I have a reservation about excepting an entire police agency in this bill over certain incidents. It is a matter of fact that there are still, even though I have this reservation, there are members of my party who are more strongly agreed with the gentleman's amendment, and they wanted their opportunity to present a similar view.

Therefore, I do not think that is the same as some plot here to keep the gentleman from Missouri from being acknowledged for his role in this amendment.

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

Mr. Chairman, the basic legislation before us is bad legislation. It would cause a raid by the BATF or any other agency of Government, to be presumptively valid if there was any property which was seized pursuant to the warrant.

That means any firearms owner, owner of a shotgun, sporting ammunition, sporting weapons of any kind, or target weapons in this country is subject to being raided without the slightest semblance of a defense as to the illegality of the search or seizure, whether the law enforcement authority has a warrant or not.

Mr. Chairman, let me read some words from William Pitt which I think we should keep in mind as we consider the fourth amendment, which is at least as precious as the first and the second.

Here is what William Pitt had to say, a great British parliamentarian:

The poorest man may in his cottage bid defiance to all the force of the Crown. It may be frail, its roof may shake; the wind may blow through it; the storms may enter, the rain may enter, but the King of England cannot enter; all his forces dare not cross the threshold of the ruined tenement!

What I am saying, Mr. Chairman, is that in this country, until this legislation, under interpretations of the Constitution by conservative courts, not by a congregation of radicals, the ordinary citizen was able to assume that he was protected in his home against improper raids and against improper procedures under warrants, or lacking warrants, by law enforcement persons entering his home. Under this legislation that will no longer be so.

□ 1210

A man had a right to assume that he was secure in his person, in his property, in his home, and he had the right to know that he was protected by the courts.

H.R. 666 would do away with those protections, and particularly so in the

case of owners of firearms and sportsmen in this country who use their firearms solely for law-abiding purposes, legitimate sporting and hunting and self-defense purposes.

Now, having said those things, let us look a little bit at what it is that BATF has done over their history. I want my colleagues to go back with me to the raid that was performed on the home of a law-abiding citizen by the name of Kenyon Ballew. BATF first entered an apartment upstairs where they held a shotgun at the head of some 8-year-old children. When they found they had raided the wrong place, they then went downstairs, and they broke through a back door in the man's home which was never used. It was essentially a back door. They seized the man's wife and threw her into the hall in only her underpants. Mr. Ballew was coming out of the shower with a cap and ball revolver seeking to defend his home and his wife against a noisy band of intruders who bore no indicia of their service as law enforcement officers.

Indeed, the event was classed as a training exercise. Mr. Ballew was shot in the head, and he is today, if not dead, still a cripple and still partially paralyzed, incapable of speech.

This whole unfortunate matter was covered up under the aegis of Mr. Connelly, the then-Secretary of the Treasury. My colleagues on the majority side of the aisle will remember Mr. Connelly.

I want to tell you about what they did after the raid was concluded. They went outside, still dressed as hippies with beards and in scruffy clothes, and at which time they first put on their BATF armbands to show that they were law enforcement officers engaged in proper exercise of their legal authority, and that they had given proper warning to the individual of their authority which, in fact, they had not.

I want to tell you a couple of other things about the BATF. BATF ran a citizen of the State of New Jersey off the road while he was driving down the road in New Jersey with his wife and kids. They beat him up. Then they found that they had attacked the wrong citizen, and then they said, "If you report this to anyone, we will be back and give you some more."

Now, I want to tell you about an innocent collector, whose home they raided. They seized all of his valuable firearms, all legal, took them, put them in barrels, damaged them, that is the firearms. The citizen then had to sue to recover the firearms which were his lawful property, and whose proper ownership was never contested by the BATF or anybody else. But the law-abiding citizen had to go to court to sue, to recover property improperly taken from him.

The records of BATF are rich with this sort of abuse of the rights of citizens.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 4 additional minutes.)

Mr. DINGELL. The consequences of the behavior of the BATF in these kinds of cases is that they are not trusted. They are detested, and I have described them properly as jackbooted American fascists. They have shown no concern over the rights of ordinary citizens or their property. They intrude without the slightest regard or concern.

Now, if you want a more recent event, take a look at what they did in Waco, TX. Is that a defensible event? Scores of Americans were killed because of ineptitude by BATF acting under legal process, as they said, and that whole matter is going to be suppressed after scores of Americans have been killed because of the ineptitude and crass misbehavior of the BATF.

Now, let us take a look at what this legislation does. H.R. 666 says that there is no defense in the courts against that kind of behavior by BATF or anyone else. The amendment offered by the gentleman from Missouri says that BATF is not included within that rubric. They are not protected in their misbehavior and they must defend their cases on the basis of the propriety of their behavior as now defined under law.

Remember, all that the law now says is that before you raid a man in his home you have to do it incident to a valid arrest or you have to do it with a arrest or search warrant. I do not think that is excessive in a free society, in one where we expect the ordinary citizen to be secure and protected in his home.

Now, what is a citizen to do if he is improperly raided under H.R. 666? There is nothing, literally nothing, that the ordinary citizen can do. The only defense which a citizen has under this kind of improper raid by BATF or by any other agency, State or Federal, was to have the information and the evidence improperly seized suppressed. H.R. 666 sanctifies misbehavior, and it makes such yard, and such seizure of property presumptively valid. It eliminates any question of propriety by the authorities.

Now, it is fair to say that with regard to criminal misbehavior, that law enforcement agencies are able to and have consistently watched wrongdoers over a long period of time. They built their cases with care. Having built their cases with care, they then go to court and get a proper warrant. Then they would proceed to execute the warrant.

H.R. 666, if enacted, will be applied to the ordinary citizen, not to the hardened criminal, but rather to the law-abiding citizen who has a rifle or shotgun in his closet or hanging over his mantelpiece or under his bed, and he is going to be the victim of this kind of

legislation. His protection of home, property and personal security will be ended.

This is bad legislation. It has been said today it does not affect the fourth amendment. In point of fact, it blows a huge hole in the fourth amendment. What it says is that a raid conducted improperly without proper warrant, or without warrant at all, is presumptively valid, and the burden then shifts on to the defendant who has been wronged by his Government, by the agencies of his Government, acting under either no process or improper process to defend himself. The wronged citizen is compelled to retain a lawyer. He is compelled to go through a long and costly court procedure, and he cannot, under H.R. 666, get protection afforded him by the requirements for a proper search. He cannot have property seized under an imperfect search warrant, or no search warrant excluded from the trial. That is literally the only defense that a citizen has against improper behavior in terms of search and seizure by law enforcement personnel.

The attack on H.R. 666 is not an attack on law-abiding citizens. It is an attack on wrongdoers. It is a bad piece of legislation.

I urge the legislation be rejected, and I urge the amendment offered by the gentleman be adopted.

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

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

I must say I was pleased to hear the gentleman from Michigan quote William Pitts. We were thinking of Billy Pitts on our side whom we all miss, and I am glad, but I guess it was an earlier William Pitts to whom he referred.

Waco suppressed: Gee, I remember sitting through an exciting 1-day hearing under the aegis of the former chairman of the House Committee on the Judiciary where we heard all and sundry witnesses on the Waco situation. I do not think it was suppressed, at least insofar as that 1-day hearing was concerned.

But I will just point out that the Bureau of Alcohol, Tobacco and Firearms is an executive agency. It is part of the Treasury. Former Senator Bentsen, who was the Secretary of the Treasury, was its commander in chief. The present Secretary of the Treasury is the commander in chief, for want of a better title, of the Bureau of Alcohol, Tobacco and Firearms.

And so this attack on an executive agency is interesting. I would suggest if it is so horrible, let us get rid of it. I would suggest the gentleman introduce legislation to dissolve the Bureau of Alcohol, Tobacco and Firearms.

Instead, you want to make an exception to a general rule which we are trying to adopt, modifying the exclusionary rule so guilty people who possess evidence, contraband, when they are arrested, that it gets admitted into evi-

dence. To make an exception for a single agency of Government is really foolish.

It would seem to me, if the Bureau of Alcohol, Tobacco and Firearms is so oppressive, we ought to get rid of it. Let us attack it head on. Let us hold hearings. I want to tell the gentlemen on the other side, we are going to hold hearings. We are going to hold hearings on the excessive use of force as alleged in Idaho, as alleged in Waco and other places.

□ 1220

We are going to look at that, absolutely. We are not going to sit passively by or have 1-day hearings but to carve out an exception to the exclusionary rule for one agency of Government which is an executive agency of Government makes no sense.

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

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

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, I express great affection and respect for my friend.

Mr. HYDE. And it is mutual.

Mr. DINGELL. I am just curious. The gentleman is chairman of the Committee on the Judiciary. I am curious why he is in such a rush to get this bill on the floor before he has looked at the kind of misbehavior that I have described or the kind of misbehavior that the gentleman is now describing.

Mr. HYDE. Well, all I can say is I do not recall the gentleman introducing legislation to dissolve, to dissolve the Bureau of Alcohol, Tobacco and Firearms. I would think that would be the way to go if what the gentleman is half true.

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

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

Mr. SCHIFF. I thank the chairman for yielding to me.

Mr. Chairman, I oppose this amendment also, and I do so because, as I understand the arguments that are being made, they come down to this: The argument is that the Bureau of Alcohol, Tobacco and Firearms is riding roughshod over the rights of innocent law-abiding people, and I want to point out that this was the testimony at our hearing on the exclusionary rule that the exclusionary rule does not protect honest citizens from a law enforcement agency or law enforcement officers who are bent on ignoring constitutional rights. And the reason for that is law-abiding citizens are not going to have any evidence of crime in their possession which can be suppressed under any version of the exclusionary rule.

That is why this amendment is misdirected to this bill. But the chairman's suggestion to look more closely at the Bureau of Alcohol, Tobacco and Firearms for other action is quite appropriate.

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

Mr. Chairman, I rise in opposition to the amendment that is being offered here this afternoon, for a number of reasons. I think that the amendment is probably motivated by legitimate questions and concerns about ATF's involvement in a couple of incidents.

But as Treasury, Postal Service's chairman and former ranking member, we have had an opportunity to review these incidents and work with ATF and a number of other people. Not being the boot-jacked Gestapo, as they were described earlier, they are good, hard-working Federal employees who have families, men and women with children, who are trying to make a living and do what they think is right.

Earlier reference was made to the situation at Waco, TX, and I would suggest to my colleague from Missouri and others who are so incensed about the Waco issue that rather than respond to all the editorial vitriol that we have read, which much of it is based in untruths and innuendoes and hearsay, that they take an actual look at the case.

If you look at the Waco situation, the warrant that was used initially was a valid warrant. Eleven people were charged. Eight of those people have been convicted and are now in jail.

There were fully automatic weapons in the Davidians' compound, fully in violation of the 1938—1934—law, which prohibits use of ownership of fully automatic weapons in this country. It was a valid warrant.

I also suggest to the gentleman there were other law enforcement agencies involved in the Waco situation, as was there was in Idaho. In fact, the fire was not the result of the ATF, it was a result of the FBI. Attorney General Reno, if you will remember, stood up and said, "I take the heat for this. It was my decision."

ATF is not a part of the Justice Department; they are under the Treasury Department. It was two separate law enforcement agencies.

In the situation in Idaho, the ATF had made a clean arrest. But when it got into the fire fight, it was the U.S. Marshall Service involved in that incident.

So I would just suggest, as the chairman of our subcommittee, we have hearings that are coming up and if the gentleman would like to withdraw the amendment, we certainly would make available for him the opportunity, or anyone else who would like to be there, to talk to ATF to bring this thing down.

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

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

Mr. VOLKMER. I thank the gentleman for yielding.

Mr. Chairman, I am not about to come and testify and talk to the gentleman's subcommittee because it ap-

pears to me, from just listening to the gentleman's statement, that the gentleman is completely in agreement with whatever Bureau of Alcohol, Tobacco and Firearms has done in the past, including keeping law-abiding citizens' guns from them after they have executed a search warrant, no charges ever filed. They have kept those guns and still, even after filing suit, spent all kinds of money to get them back. The gentleman is saying that is good stuff.

Mr. LIGHTFOOT. Reclaiming my time, I say to the gentleman from Missouri I have stood shoulder to shoulder with him fighting for second amendment rights. I own guns. I used to be a gun dealer. I am a hunter. I will go to the wall protecting the second amendment rights to own a firearm. I think it is important. It is part of the Constitution. I think we should do that.

ATF has been charged with the responsibility of enforcing our Federal gun laws. It is not a popular thing to do. I would suggest, from comments the gentleman from Michigan, [Mr. DINGELL] made, there is probably not a law enforcement agency in this country that you cannot go into and find one of these anecdotal stories where someone was mistreated. Unfortunately, that is the nature of the business because a lot of decisions have to be made under pressure, and sometimes those decisions are not correct, and we will admit they are not correct.

I only say, to single one agency out, as we are doing here, is poorly misdirected. If the gentleman persists with his amendment, I am considering offering an amendment to the amendment which would include in this exclusion the FBI and U.S. Marshals Office. Let's include them all. The gentleman is totally off base. The whole purpose of the exclusionary bill that we are offering anyway does not allow anyone to go in on a raid without just cause. You still have to have a warrant, you still have to do it right. It only addresses the fact that if, during the process of executing that maneuver, you can obtain evidence which later is valuable, it was obtained in good faith, then it would be allowed to be admissible in courts. It does not exempt anyone's rights or cause anyone to be under undue pressure from law enforcement people. If you talk with law enforcement people, every day those people work very hard. A lot of times they do things that are very much done in good faith, but it gets kicked out in the courtroom, some criminal goes free, and we really do not solve the problem.

I really think we have a bit of a witchhunt here.

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

Mr. Chairman, I just want to share my sense of happiness that my Republican colleagues have succeeded so soon in improving American Government. We have just heard virtually every one on the Republican side rise to speak in

praise of the Bureau of Alcohol, Tobacco and Firearms, to defend the actions in Waco, to defend the actions in Idaho.

Now, it had not previously been my experience that Republicans were as supportive of the law enforcement efforts of the Clinton administration. And I guess Republicans said that once they got into the majority, things would get better. Well, they have apparently gotten better more quickly than I had thought, because we have been hearing from our Republican colleagues today words of praise and support for the law enforcement Federal agencies that I had not previously heard. I appreciate this.

The simple act of the Republicans switching from minority status when they got to offer amendments and be critical, to majority status where they are now really responsible has apparently had the wondrous byproduct of improving the quality of the executive branch.

Republicans, who on the whole when they were in the minority were quite critical of virtually all the actions of the administration, now they are in the majority, with the responsibility for running this operation, find virtues heretofore unchronicled in various of the Clinton administration entities.

I want to say that I am pleased to welcome this spirit of constructiveness. There is a higher degree of support coming forward than I have heard before. I am glad they have found on a second look that there is a lot more to be supported.

I have myself not been critical of the Bureau of Alcohol, Tobacco and Firearms. I had not previously recollected such Republican support. I hope it will be noted the extent to which the Republican leadership finds that the Federal law enforcement people at Waco and Idaho should be praised.

I thank the gentleman.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman from Massachusetts for yielding to me.

Mr. Chairman, in the interest of comity, I ask unanimous consent to withdraw the amendment and that the gentleman from Missouri [Mr. VOLKMER] be recognized immediately to offer the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. SCHIFF. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. FRANK of Massachusetts. Mr. Chairman, I will reclaim my time to say that I am sorry that the people on the other side continue to want to deny Mr. VOLKMER the credit to which he is entitled for bringing this amendment forward.

But I do think that it is clear enough to say that this was the idea of the gentleman from Missouri. Apparently,

respect for law and order does not extend far enough to not try to steal credit from the gentleman from Missouri.

□ 1230

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, could I ask the gentleman from New Mexico [Mr. SCHIFF], my friend, what the basis of his objection is? We have already worked in comity during this bill and during the committee. I am puzzled about this. This is a very small technicality, and would the gentleman just tell us what is on his mind?

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

Mr. FRANK of Massachusetts. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I am not sure how parliamentary it is to ask for a reason for objection to unanimous consents. I do not recall their side ever having to explain, but I will be happy to.

The gentleman from Michigan stood up to offer the amendment. I guess their side thought we did not know what amendment it was they were going to offer. The gentleman from Missouri [Mr. VOLKMER] did not offer the amendment; the gentleman from Michigan offered the amendment.

I say to the gentleman, "It is your amendment, and it should stay your amendment. We did not determine the order in which your side stood up to offer this amendment."

Mr. FRANK of Massachusetts. Reclaiming my time, Mr. Chairman, I would just ask my friend, "This unwillingness to let the gentleman from Missouri take credit for his amendment; was it something he said?"

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. May I point out to my friend, still my friend, that the gentleman from Missouri [Mr. VOLKMER] is one of the cosponsors of the amendment with the gentleman from Michigan [Mr. DINGELL]. We are not adding anything, and it may not come as news to my colleague that he had worked on this amendment, not only now, but for quite a while.

Mr. FRANK of Massachusetts. Mr. Chairman, I will yield to the gentleman from Missouri [Mr. VOLKMER] in the first place, but I suggest, to economize, maybe the gentleman from Michigan can ask unanimous consent to change his name to VOLKMER.

Mr. Chairman, I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would just like to point out to the gentleman from New Mexico [Mr. SCHIFF] that we have 2 years in which to operate in less than a little over a month, is what we have to operate under. If the gentleman persists in making such what I call minuscule objections, ob-

jections for minuscule reasons, I would say to him, "You can rest assured, gentleman, that this gentleman knows how to make objections to unanimous-consent requests also."

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent once more to withdraw the amendment, and that the gentleman from Missouri [Mr. VOLKMER] be recognized immediately to offer the same amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. SCHIFF. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

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

Mr. Chairman, I have some remarks that go to the substance of the amendment which every person on the other side is the author of it.

I have listened very carefully to the learned remarks, to the gentleman from Illinois, the distinguished chairman of this committee, and I think they are very well spoken and very appropriate.

As the distinguished chairman noted, all of us who care about effective law enforcement, who care about the abuses that all of us have seen in law enforcement over the years, including in recent years, are very concerned and are committed to addressing those problems. Mr. Chairman, there are, however, effective and appropriate ways to address them, and then there are ineffective and inappropriate ways, such as this amendment, Mr. Chairman, which do not really get to the heart of the matter and, in fact, may provide window dressing and refuge for those who really do not want to address the problems.

In addition, Mr. Chairman, with regard to the amendment itself, as a former U.S. attorney and somebody very familiar, I think, with the sorts of joint law enforcement efforts that are extremely important, particularly, but not exclusively, in the area of attacking organized crime and drug trafficking in our country, it is frequent that we in law enforcement, or those who are still in law enforcement, find ourselves involved in trying to orchestrate very complex types of law enforcement activities, and sometimes infrequently those involve the Bureau of Alcohol, Tobacco and Firearms, the FBI, DEA, IRS, State and local agencies; and if in fact, as it is, the intent of those of us who support H.R. 666 to strengthen the role of law enforcement in legitimately carrying out those specific and important types of criminal/anticriminal activities and to ensure that evidence that should be admitted into court is in fact admitted into court under appropriate safeguards which are included in our system of justice, even under H.R. 666, when in fact there may have been a technical violation, but

again everything has to satisfy the standard of reasonableness; then I can foresee very clearly and reasonably situations in which the rights of victims and the rights of society in general are going to be harmed if this amendment passes.

For example, Mr. Chairman, if we do have a joint operation involving BATF as well as other agencies, State and/or local and/or Federal, and there is a question that arises as to whether or not evidence should be admitted under the terms of H.R. 666, the fact that ATF may have had some role, whether it is minor or major in that operation, could provide an exception through which a Mack truck could be driven, and we would have in effect defeated the intent of H.R. 666.

So, while I share the gentleman from Missouri's very eloquent statements on this issue, as well as the gentleman from Michigan's very eloquent statements on this issue, I think it does not address the underlying issue that the gentleman from Missouri raised both today and yesterday with regard to the second amendment which I, despite his intimation yesterday, cherish, and know about, and cherish as well as any amendment to the Constitution, but this is not the appropriate vehicle with which to address those very fundamental concerns, and I agree they ought to be addressed, and I do think that this amendment, if it were to go forward, would have the effect of defeating in some instances, but perhaps in very important instances involving major drug trafficking cases, that our Government may choose to bring on behalf of the citizens. This amendment could have the effect of having evidence that really ought to be admitted not admitted, and it could have, therefore, Mr. Chairman, an adverse impact and one that I do not think the gentlemen on the other side of the aisle who are proposing really intend for it to have.

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

Mr. Chairman, I rise in the strongest possible opposition to this amendment. Its premise is slanderous to 2,700 of our fine law enforcement officers. It is a bigoted statement I say to my friends who have been the subject of bigotry. An NRA letter says that somehow ATF agents, unlike all the other agents, cannot be trusted. There is no evidence of that. Two hundred sixty-six of those agents since 1920 have lost their lives. Do my friends on this side of the aisle want those agents to believe that somehow they are less trustworthy than other law enforcement agents in this country? I think not. The chairman of the Committee on the Judiciary is correct. If that is our premise, then let us abolish ATF.

My friends in this House, we are talking about crime bills. We are talking about safe streets, and safe schools, and safe communities, and safe neighborhoods. They are threatened today by some of the most violent, vicious

people in America who traffic in guns that will kill people very fast, and a lot of them, not to hunt, not to shot at targets, and they traffic in explosives. We just had a plea by somebody in New York who wanted to blow up the United Nations, undermine the security of the international community. Who investigated and found that conviction? An ATF agent.

Now I think this bill can be argued one way or the other on its merits as to whether you want to extend the exclusionary rule good-faith to warrantless searches or not. I think that is a legitimate debate, but I say to my friend on this side of the aisle: Let us not slander some very good people who daily we ask to go up against some of the most dangerous, deranged criminals in this land who threaten the stability of this Nation.

There is no evidence to support the contentions of the NRA that, unlike all others, and I presume that they would like to see this exclusionary rule applied to the Los Angeles Police Department, or the New York Police Department, or the Dallas or Miami Police Department; they would like that.

□ 1240

Their premise presumably is that they are perhaps not as well-trained or as carefully or as closely supervised as the agents of ATF, and they are wrong—dead wrong. I say to my friend, the chairman of the committee, for whom I have great respect and with whom I am probably going to vote at the conclusion of the consideration of this bill, do not besmirch these officers, do not single them out. There is no evidence on which to say that they are less competent or less concerned with constitutional protections.

They protect our country. We have asked them to do so. We have asked them to do one of the most difficult jobs of law enforcement in this country—dealing with those who traffic in illegal guns and explosives that can kill a lot of people very quickly.

Do not pretend that the debate on this floor is simply in a vacuum to make political points against our friends on that side of the aisle, that we will embarrass them for voting against the NRA this time, and that those 2,700 agents and all their predecessors and that organization will somehow be oblivious to the debate on this floor that intimates that they are less worthy of being extended this authority than some other law enforcement agents charged by the Government of the United States to protect the welfare of this Nation.

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

Mr. HOYER. I am glad to yield to my very good friend, the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I am just curious. Did the gentleman vote against the amendment offered by the gentleman from Michigan yesterday?

Mr. HOYER. No, I voted for it.

Mr. VOLKMER. What did that do? It did the same thing for all law enforcement as what this does for BATF.

Mr. HOYER. I understand that. That was on the merits.

Mr. VOLKMER. Yesterday the gentleman said it was OK, and today he said it is not.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. HOYER] has expired.

(By unanimous consent, Mr. HOYER was allowed to proceed for 2 additional minutes.)

Mr. HOYER. Mr. Chairman, to respond to my friend, the gentleman from Missouri [Mr. VOLKMER], as I said at the beginning, that is on the merits of this issue. I think this is a serious issue. There are a lot of Members on this floor who are very concerned about the fourth amendment, which is an amendment that sets us apart from much of the world. It was an amendment that the forefathers thought was critically important so that the King Georges to come in future generations could not simply say, "I'm going to come into your house; I'm going to come into your private spaces to investigate" absent probable cause and a magistrate supposedly and in most instances objectively making a determination that there is probable cause.

That is, I say to my friend, the gentleman from Missouri, the objective issue. This amendment does not deal with a substantive issue. It deals with politics, and in the process of politics and posturing it deals with trying to embarrass the other side. I understand that. But my concern with it is that in the process of doing that it slanders a group of people that we ask to do one of the most dangerous jobs in America.

Mr. Chairman, I ask my colleagues on both sides of the aisle to reject this amendment and then vote on the policies raised by the substantive bill itself.

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

At this point, Mr. Chairman, I would join in the remarks and ask to be associated with the remarks of the gentleman from Missouri [Mr. VOLKMER] as pertains to his regard for the BATF, the Bureau of Alcohol, Tobacco and Firearms.

As a former U.S. attorney, like the gentleman from Georgia [Mr. BARR], I had experience dealing with the ATF on a daily basis and found that they feel very strongly about their mission, and, No. 2, they support by and large as individuals, as I do, the second amendment right to bear arms. I do not think there is anyone any stronger than I am in that regard, as are the Members standing up and talking at this point. And that is not the issue here. The real issue is, what do we do with fighting those criminals who carry guns and use those weapons in the commission of crime?

During my tenure as U.S. attorney there was a project called Project Trig-

ger Lock that focused on aggressive prosecution of those criminals who used guns in the commission of those crimes. It was the prosecution of existing Federal laws, not new laws but laws already on the books, prosecuting felons in possession of weapons. And that program was primarily the result of the work of the ATF.

In our area we had one of the most outstanding Trigger Lock programs throughout the country, one which formed a coalition between ATF and local authorities, including sheriffs, deputies, and police chiefs, in ferreting out again those violent people, those criminals who use guns in the commission of crime. This is what everyone says we ought to do, and that is lock up the people who commit the crimes using the guns, but protect the rights of those innocent law abiding citizens who own and possess these weapons.

My experience with the ATF was that they worked hand in hand with other agencies very well. And as the gentleman from Georgia [Mr. BARR] said earlier, to amend this proposal, this bill, would weak havoc on the law enforcement activities of the ATF as well as all the other agencies they work with.

We had task forces, as I described earlier, that involved local law enforcement authorities in joint operations. Just as a practical matter, to hamstring the ATF with this type of amendment, it would be an impossible task for them to be functional. But I think, more importantly, as the gentleman from Maryland [Mr. HOYER] pointed out, to label one agency with perhaps mistakes made by some and those yet to be decided—and I am sure they will be fully aired as we progress into our Judiciary Committee—but to label one group and to focus on them and exempt them from this bill, I think, is unfair to the many outstanding agents of the ATF.

My experience has been that they were a well-trained, professional organization, trained on a par with other Federal agencies, the FBI, the DEA, Postal, Customs, INS, the whole works. Without exception, I found they were excellent officers. I think such an exemption from this bill is unwarranted and ill-conceived.

I think if we are going to do anything, if there is a problem with ATF, then let us look at it and see if the agency should even exist. But again to hamstring them with this type of amendment is not a good idea, and I would strongly oppose it.

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

Mr. BRYANT of Tennessee. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I just want to say briefly that we have heard some impassioned opinions about the Bureau of Alcohol, Tobacco and Firearms, both in their favor and in their opposition. I want to point out, however that I do not think this is going to be an amendment that will be decided

on whether we approve of how the Bureau of Alcohol, Tobacco and Firearms by itself operates.

The issue is, will this amendment, if it passes, affect those issues that the sponsors and proponents have offered? And the fact of the matter is, if in fact any officer or group of officers—and I say, “if”—have made a conscious decision to deliberately violate the constitutional rights of any of our citizens, the fact of the matter is that the exclusionary rule of evidence does not protect honest citizens anyway in that circumstances because honest citizens will not have the evidence of crimes which can be suppressed and not used against them at the time of trial. There will never be any kind of criminal conduct, and that is why in my judgment this amendment is misapplied, and if there are problems with the Bureau of Alcohol, Tobacco and Firearms, as suggested, I think other remedies could be brought to bear by this Congress.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. WATT of North Carolina. I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent to withdraw the amendment, and that the gentleman from Missouri [Mr. VOLKMER] be recognized immediately to offer the same amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The amendment has been withdrawn, and the gentleman from Missouri [Mr. VOLKMER] is recognized.

AMENDMENT OFFERED BY MR. VOLKMER

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

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: Page 3, line 14, strike the close quotation mark and the period which follows.

Page 3, after line 14, insert the following:

“(d) LIMITATION.—This section shall not apply with respect to a search or seizure carried out by, or under the authority of, the Bureau of Alcohol, Tobacco and Firearms.”.

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

Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. Since this is a new amendment, the Chair is inclined to recognize the gentleman from Missouri [Mr. VOLKMER] for the purposes of explaining his amendment.

□ 1250

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent that the gentleman from North Carolina [Mr. WATT] be allowed to continue and address the committee for 5 minutes.

The CHAIRMAN pro tempore (Mr. BURTON of Indiana). Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. WATT of North Carolina. Mr. Chairman, I hope my colleagues and the American people have been listening to this debate on the underlying bill. I do not want to deal with the amendment itself. I want to talk about the bill that has been offered, because what this bill forces us to do is exactly what we have seen happen on the Floor of this House for the last 2 days. It forces us to try to decide who is good and who is bad.

If I hear one more time during the course of this debate that this is not about innocent people, that this is about guilty people, I think I will throw up. This is about the American people and the Constitution of the United States. It is about innocent people who own guns, who might have them in a closet somewhere and have their door kicked in, which is why this amendment was offered. It is about innocent people like the gentleman from Illinois [Mr. RUSH], who might have bird seed in their closet, and have their doors kicked in because some police officer thought he had some cause to do it and could not go down to the courthouse and get a warrant.

It is about innocent people like the gentlewoman from Colorado [Mrs. SCHROEDER], who had a button, a campaign button in her house, and had her whole being violated by the FBI, who came in, in violation of her rights.

It is about innocent people who own homes, who have the right to be secure in those homes. And we cannot afford as America to turn the questions about who is good and who is bad in our society over to a police officer on the street, whether that police officer is from the ATF, the FBI, the CIA, the Atlanta police, the Raleigh police, the New York police. We cannot make those choices, and the Constitution of the United States put us in a position where we did not have to make those choices.

This debate points up exactly what point I am making, because here we are now talking about whether the ATF is good or whether the FBI is good, or whether this police department is good or that police department is good. But that misses the whole point. It misses the point that every citizen in this country is presumed to be good, presumed to be innocent, until they have had their day in court, and that we ought not allow a police officer in the heat of the moment to kick somebody's door in and make that decision on the spot.

The first amendment, as I indicated yesterday, is not about people who engage in mainstream speech. It is about protecting the rights of the people to say what they want when we do not like what they are saying.

The fourth amendment is not about protecting the guilty or the innocent.

This is not about whether we like criminals or not. Nobody in this House likes criminals. I do not want the police officers out there on the street to decide on the spot whose door they are going to kick in and whose rights they are going to violate, even if they are 99 percent right and there is just that 1 percentage point of people out there whose rights they violated. Because that 1 percent, that 1.3 percent we have heard talked about here on this floor, is what the fourth amendment was designed to protect.

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

(By unanimous consent, Mr. WATT of North Carolina was allowed to proceed for 1 additional minute.)

Mr. WATT of North Carolina. Mr. Chairman, this bill puts us in a position of sitting here on this floor and getting into these kinds of irrelevant debates. I agree with my friend, the gentleman from Maryland [Mr. HOYER]. We ought not exempt this one agency without exempting other agencies. We ought to exempt the entire American people from the effects of this bill. That is what the amendment ought to say. If we believe in the Constitution this demon bill, 666, ought to be withdrawn and go back where it came from and never see the light of day again.

Give me the Constitution, drawn by the Founding Fathers, not some version of rights thought up by the Republican Contract for America. I will take the Constitution any day.

Mr. VOLKMER. Mr. Chairman, I rise in support of my amendment.

The CHAIRMAN pro tempore. The gentleman from Missouri is recognized for 5 minutes.

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

Mr. VOLKMER. Mr. Chairman, I have been listening to the debate here, and what I hear concerns me greatly. Because what I hear is that we have nothing but praise almost by the speakers, especially the gentleman from Illinois, the gentleman from Iowa, the gentleman from New Mexico, the gentleman from Georgia, about one of the most Rambo-rogue-law enforcement agencies in the United States.

I say that this amendment is not political, Mr. Chairman. This is something that HAROLD VOLKMER has been working on because I believe strongly not only in the fourth amendment, but every amendment to the Constitution, including the second amendment. And if there has ever been a violation by any agency of this government of the second amendment right of the people and gun owners and hunters and sportsmen of this country, it is by the Bureau of Alcohol, Tobacco and Firearms.

I as a member of the board of the Firearms Civil Rights Legal Defense Fund can tell you that this is not something that just happened at Waco, folks. It is not something that just happened in Idaho, folks. Those are the

big ones that got the news. The little ones that we are working on right now, this day, and been working on continuously since I came to this Congress off and on, it depends on who is running the BATF, we have got them going on right now, violations of individuals' rights to own guns.

Well, how would you like it if you had a gun collection and you were a part-time law enforcement officer and you did something that the BATF agent just didn't like, and he did not like you, and he went and got a search warrant and he went in and took all of your guns, every one of them out of your house, about 55 of them, and to the gentleman from Ohio, I say, it happened in Ohio, and they took them away. Never an indictment, never a complaint. Three years ago. And guess what, folks? He still has not got his guns back. He has a lawsuit over it, and we are helping him on it.

Mr. Chairman, I can tell you more. How about places getting broken in by BATF, and, "I am sorry, folks, after we have torn up the place, we did not find anything." "I am sorry, folks, wrong address."

What is going on with this Rambo outfit? This is not something that just started this year. When I first came to this Congress I was a member of the Committee on the Judiciary. I heard about instances of BATF and how they were trying to put gun dealers out of business. And that is going on right now, and I can tell you another instance about that right now.

□ 1300

They are trying to put dealers out of business so they cannot sell the guns that our people should have. That was going on because they said there were too many dealers that we have got to get rid of them, and we have got to get rid of the little ones because we cannot investigate them all. That was their excuse for their attitudes.

As a result of that, starting in 1978, in my freshman year, I started working on what became known in Missouri as the Volkmer-McClure bill. In Idaho, it is known as the McClure-Volkmer bill. That bill corrected at that time many of those abuses that were taking place. And for a while it was awful quiet and they behaved themselves. But right now they are right at it again.

It is not much different when I first came here; in fact, it is sometimes worse.

This bill, without this amendment, the gentleman from New Mexico, when we were discussing it yesterday, said, well, all it means is, if the difference is that if they do not find anything, it does not make any difference; if they do not find anything illegal, it does not make any difference if you have a warrant or you do not have a warrant.

Gentlemen, we all know that. That is silly. What this bill does to the BATF is give them a green light. They do not have to go to the magistrate and get a warrant for anything. They just go

right in there and bust those doors down.

The CHAIRMAN pro tempore (Mr. BURTON of Indiana). The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 5 additional minutes.)

Mr. VOLKMER. Just bust the doors down and go in and take the guns and if they find something illegal, they say "Hey, we gotcha." And if they do not find anything illegal, they say sorry. Sometimes they do not even say that, folks.

Right now they have guns in their possession and some of them, by the way, when they have been forced to return them, forced by court orders to return them, they are not worth a darn anymore. They are damaged. They are rusted. They make sure that our gun owners do not have any guns. There is not any other Federal agency or local agency anywhere in this country that is about this business, but this agency is.

Now, they may do some good things down the road, but they also do some terrible things. I do not believe that the civil rights, and I call them civil rights, under the Constitution of my gun owners, my hunters and my sportsmen, should be put in jeopardy by this bill giving those very same agents the right to go in and take them away. And what I am amazed at, there has not been one Member from that side of the aisle to stand up in favor of sportsmen, hunters, and gun owners.

Who has stood up? I will tell my colleagues who has stood up. Not just Members on this side, the National Rifle Association of America. What does it say?

Just yesterday, "The National Rifle Association of America would like to express our strong support for your amendment exempting the Bureau of Alcohol, Tobacco, and Firearms from a relaxation of the new exclusionary rule standard as embodied by H.R. 666. The slipshod regard and generally low esteem that ATF has traditionally shown for the constitutional rights of law-abiding Americans indicates that the term 'good faith' has little meaning for them in the context in which they conduct their investigations. We would be remiss in our responsibility to our members and to the rights of all law-abiding Americans were we to allow a further relaxation of the fourth amendment standards to which ATF already gives short shrift to go unremarked and unopposed. We urge all Members of the House to vote in support of your amendment."

Also I would like to read from the Gun Owners of America. They, too, today delivered a letter to me.

"I urge you to support the Volkmer amendment to H.R. 666. This amendment simply states that the bill will not apply to any searches and seizures carried out by the Bureau of Alcohol, Tobacco, and Firearms. BATF has de-

veloped a torrid history when it comes to violating people's gun rights. And thus, Gun Owners of America will score the Volkmer amendment as a gun vote. That is, a vote for the Volkmer amendment will be scored as a pro-gun vote."

I just want to let all of my colleagues know that what I have heard today on this amendment really bothers me, because I know what BATF is doing out there to our people. And yet I am not going to have any avenue in this Congress to do anything about it except through this amendment. Because it is very apparent to me that the chairman of the Committee on the Judiciary, the majority members of that Committee on the Judiciary think that BATF is a wonderful agency. And they are going to go out and protect that agency. So when I ask for hearings to look into these abuses by BATF, they are going to tell me, forget it, because we are going to protect them. We are not going to do anything to hurt that agency. That is a wonderful agency. That is what I hear from that side.

I was prepared, we are watching some right now, I was waiting just for the opportune time to come to them and say, we need to have some hearings. We need to look into what this agency is doing. Now I am not going to have that avenue.

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

Mr. VOLKMER. I yield to the gentleman from New Mexico.

Mr. SCHIFF. I thank the gentleman from Missouri for yielding.

I do not know if the gentleman recalls, but to the best of my recollection, on each of the firearms-related bills that have been introduced on the House floor, I believe the gentleman and I have been on the same side of the argument each and every time. That is my best recollection.

Second of all, I will join the gentleman in seeking hearings on the issues that have been raised concerning the Bureau of Alcohol, Tobacco and Firearms on this floor.

My opposition to the gentleman's amendment very simply is his amendment and this bill have nothing to do with what the gentleman is talking about. I would like to explain it two ways.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has again expired.

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

Mr. SCHIFF. Mr. Chairman, if the gentleman will continue to yield, we have the exclusionary rule intact now, and it has not prevented any of the incidents that the gentleman has described. And it will not protect anyone in a situation where, if as alleged by the gentleman from Missouri, an agency or even an officer, one officer, have become, to use the gentleman's words, a rouge officer, a rogue institution. Those individuals who choose to abuse their law enforcement power and do so

for the purpose of harassing law-abiding citizens are not going to be deterred by the exclusionary rule because they are not looking for evidence to use in a criminal case in the first place.

To turn it further the other way, this offers a good faith exception. If ATF or any other agency breaks down a door without a search warrant to someone's house, in a situation where they needed a search warrant, it is not good faith, even if they happen to find something that is illegal. It would not be allowed under this bill. So with the utmost respect, again, I suggest that the gentleman's amendment, which he obviously feels so very passionate about because of his view of this agency, is not applied correctly toward this bill.

I thank the gentleman from Missouri for yielding to me.

Mr. VOLKMER. I quite disagree with the gentleman from New Mexico that what I said before, it does not change maybe what BATF is doing at the present. But I still say, because they can go on reasonable belief that what they are doing is right without a warrant, which they cannot do today. They have to get the warrant today. If they are going to go in and take somebody's guns away from that house, they better get a warrant.

Mr. SCHIFF. Mr. Chairman, if the gentleman will continue to yield, again, there must be an objectively reasonable belief that a search without a warrant was in fact constitutional at that time. If it is not supported when that matter is reviewed by a magistrate, the evidence would still be suppressed and it does not protect innocent citizens no matter what kind of exclusionary rule standard we have.

Mr. VOLKMER. Let us talk about that just for a minute. We have a little case not far from right out here in Virginia. We talk about all these things that these magistrates are going to do and everything. How about when a magistrate does not even know what the law is and the agent does not know what the law is. And he goes in and asks for a search warrant to go into somebody's business and take away the guns because he says that these guns are illegal, the magistrate does not know that they are not illegal, that they are legal, and he issues the search warrant and they go get it.

Now, what happens is that he gets sued, and he is going to get sued, that agent is. Now, the thing is that under this, he would not have to go to that magistrate.

□ 1310

That agent based that on erroneous information that an informant had supposedly told him, and the magistrate issued a warrant on that basis.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

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

Mr. VOLKMER. Under this bill, Mr. Chairman, after that informant had told that agent that information, he could have gone down there and took guns without a search warrant. For that reason, I say if you want to protect your gun owners from these rogue people, I would say Members had better vote for this. This will be the last chance, the only chance Members as gun owners, people protecting gun owners, will have the right to do that.

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

Mr. VOLKMER. I yield to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I thank the gentleman one more time for his courtesy.

Mr. Chairman, I want to point out that the gentleman's premise is what I believe is incorrect in this debate. There is nothing in this bill that changes the law as to when a search warrant is needed or is not needed. It deals only with those situations where, when a search is made without a warrant, if there was a good-faith error, then the evidence can be considered. It expands an exception that already exists in the law for search warrants.

In all of the examples the gentleman from Missouri [Mr. VOLKMER] has given, he has described anything but good faith. Therefore, there is not protection to honest citizens by the gentleman's amendment. Honest citizens, in fact, are not even protected by the exclusionary rule. If a law enforcement officer wants to go through that door, with the power of his immediate armament, and seize something, he or she is going to do it. If so, the exclusionary rule is not going to stop them, because that is an after-the-fact determination when someone is believed to be guilty.

Mr. VOLKMER. Mr. Chairman, I disagree with the gentleman.

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

Mr. Chairman, I think there are a couple of points that need to be made to put all of this in perspective.

First of all, as chairman of the Subcommittee on Crime of the Committee on the Judiciary, I want to make sure everyone is aware that it is our intention to hold hearings in the next couple of months on the Bureau of Alcohol, Tobacco and Firearms, and on firearms issues generally, and on some of these alleged rights violations, which may be very real or maybe are not, but we are going to explore that.

There will be opportunities, I would present, not only there but probably through legislation that will come out here on firearms in May or June that will give the Members the opportunity to debate all kinds of issues related to this.

Second, what we are doing today, it needs to be stated what it is not, rather than what it is, sometimes. What it is not, it is not a relaxation of the fourth amendment protections against unlawful search and seizures.

We are doing absolutely nothing in the underlying bill today that would in any way affect a person's right to be protected from unlawful search and seizure by police, BATF, or anybody else.

Second, Mr. Chairman, what we are not doing is destroying the exclusionary rule. I heard one of the major networks this morning on one of its morning shows state that this bill would abolish the exclusionary rule of evidence which the Supreme Court established in 1914.

The legislation that we are presenting here today does nothing of the sort. It does not abolish that rule. What we do today, what we are about to do if we pass this bill is to make it very clear that where the Supreme Court itself has carved out what it calls the good faith exception to its own rule of evidence that was designed to deter police from doing things that might violate the Constitution by saying "If you do it, naughty boys, we are not going to let your evidence in that you get there," where it has modified itself and says, "Look, the police really would have done this anyway."

There would not be any deterrent there because they had a reasonably objective belief that what they were doing was right in the cases of the warrants which have been presented to them; where there was a search warrant, the court said "We are not going to let this rule apply. We are going to have a good faith exception, let the evidence in, let the conviction, if the court can get a conviction, stand against the bad guys."

The court has never faced the situation of a warrantless search, though there are many of them that are perfectly constitutional, with the question of the exception we are proposing today.

However, there have been two Federal circuit courts that have, in the fifth and eleventh. They have embraced what is in this bill. That is what we are doing today. We are saying "Let us make this nationwide, so we do not have any loopholes involving this question and letting more criminals off the hooks than already have gotten off the hooks in the past."

If we look at the Arizona case I cited out here in debate yesterday, I think it is illustrative to put to rest the concerns that the gentleman from Missouri [Mr. VOLKMER] has with respect to BATF or any other law enforcement agency.

The type of example we have a concrete example of is an Arizona case in which there was an arrest warrant, not a search warrant, which had been issued on somebody who was stopped by the police out there.

It turns out that 17 days before they stopped this fellow that warrant, that arrest warrant, had been quashed. It had been done away with. It was not any good anymore, but their computers did not show it.

The police, because the computers had not had this input put in this,

stopped this fellow. They searched him and they found evidence of additional crime, marijuana, and I don't know what else.

The courts, because of the rule that the Supreme Court has no exception for cases that do not involve search warrants, threw out this evidence and said this was an unconstitutional search because there was no arrest warrant, and they had no right to make this search, but the police legitimately thought they were.

There was absolutely no deterrent effect on their behavior or would not be any by throwing out the evidence and losing a potential conviction of a bad guy.

The same thing would be true in a case involving weapons, whether it is the Bureau of Alcohol, Tobacco and Firearms, or the FBI or local law enforcement. There is no change in it at all. The illustrations the gentleman from Missouri has given out here today would not be appropriate, in my judgment, to what this legislation we have today affects.

We are affecting a very small situation, but sometimes a critical one, where the police honestly believe that they are doing the right thing when they do it, whatever police agency it is, and I do not think that the amendment is appropriate to give an exception to any police agency and say what we are doing does not apply.

It should apply to all of them. We should address the abuse that any agency has outside of the context of this in some other forum, and we will do that in the future, but not in this bill, because there is no way that excepting BATF from this particular bill, we are going to correct any problems that they may have had in the past or may have in the future.

The BATF, if they are abusing the law and the constitutional rights and doing something illegal or improper, are going to do it just as much in the future after this bill because law as they have done in the past, because what we are passing out here would have no impact whatsoever with respect to what they do or do not do, since it requires what we are requiring for any exception for evidence to come in, a judge finding a reasonably objective basis on the part of whatever police officer it is, including BATF, that what they are doing, they did in the believe that they were acting—

The CHAIRMAN. The time of the gentleman from Florida, [Mr. MCCOLLUM] has expired.

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

Mr. MCCOLLUM. Mr. Chairman, that is because the police, the BATF, or whoever it is, is going to be acting in order for evidence to be allowed, whatever it is, in this bill, in order to get convictions, they are going to have to be acting in the reasonably objective belief that they were correct, that there was no problem, as in the arrest

warrant case I just gave as a real illustration in a real case in Arizona that has gone before the Supreme Court.

So I do not see any harm, Mr. Chairman, in what we are doing at all. We have two Federal circuits that already have permitted this for all Federal agencies, be that BATF, FBI, or anybody else, and no ill will has come from this, no bad results, and I do not think there should be any exceptions to this, as I say, including the gentleman's effort.

Many of us who may agree with him on other matters relating to firearms simply cannot support this amendment today, even though we understand he is trying to make a protest vote out here on BATF. Unfortunately, it undermines the very basic law we have.

There may be many cases where BATF, FBI, et cetera, work in concert, and you can just mess up the whole evidentiary train if you affect one agency.

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

Mr. Chairman, I rise today in reluctant opposition to the Volkmer amendment to H.R. 666, the Exclusionary Rule Reform Act.

I am a strong supporter of second amendment rights. Like the gentleman from Missouri [Mr. VOLKMER], I have serious concerns about the Bureau of Alcohol, Tobacco, and Firearms. On numerous occasions it is my belief, and certainly the headlines have reflected, that the BATF has overstepped its jurisdictional boundaries and trampled on the rights of law-abiding citizens.

Clearly, we must seriously examine the reckless actions of this agency and work to eliminate the BATF by consolidating its legitimate functions with other agencies. Congress needs to thoroughly review every aspect of the agency's operation and its inefficiencies.

In the interim, strong congressional oversight and congressional control over BATF's budget is the best way to influence BATF management and decisionmaking and safeguard the rights of America's gun owners.

Passage of this amendment, Mr. Chairman, is not a solution to the problems with the BATF.

□ 1320

Congress has a responsibility to maintain strict oversight of this agency. Creating an exemption for the BATF from the reform of this exclusionary rule will not stop the BATF from committing unreasonable searches. It will make it easier for hardened criminals to walk on a technicality.

I urge my colleagues to defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. VOLKMER].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 198, answered "present" 3, not voting 5, as follows:

[Roll No. 101]

AYES—228

Ackerman	Geren	Peterson (FL)
Allard	Gilman	Peterson (MN)
Baldacci	Gonzalez	Petri
Barcia	Gordon	Pickett
Barrett (WI)	Graham	Pombo
Bartlett	Green	Pomeroy
Bass	Gutierrez	Poshard
Becerra	Gutknecht	Quillen
Bevill	Hall (OH)	Rahall
Bilirakis	Hall (TX)	Rangel
Bishop	Hamilton	Reed
Bliley	Hancock	Richardson
Bonior	Harman	Riggs
Borski	Hastings (FL)	Roberts
Boucher	Hayes	Roemer
Brewster	Hefner	Rogers
Browder	Herger	Rose
Brown (CA)	Hilliard	Roth
Brown (OH)	Hinchee	Roybal-Allard
Bryant (TX)	Holden	Sabo
Bunn	Hunter	Salmon
Burton	Istook	Sanders
Callahan	Jackson-Lee	Scarborough
Camp	Jacobs	Schaefer
Chapman	Jefferson	Schroeder
Chenoweth	Johnson, E.B.	Scott
Chrysler	Johnson, Sam	Seastrand
Clay	Kanjorski	Serrano
Clayton	Kelly	Shuster
Clement	Kennedy (MA)	Sisisky
Clyburn	Kennedy (RI)	Skaggs
Coburn	Kildee	Skelton
Coleman	Klink	Slaughter
Collins (MI)	Klug	Smith (WA)
Combest	LaHood	Souder
Condit	Laughlin	Spence
Conyers	Levin	Spratt
Cooley	Lewis (GA)	Stark
Costello	Lincoln	Stearns
Cramer	Lipinski	Stenholm
Crane	Lofgren	Stockman
Crapo	Martinez	Stokes
Creameans	Mascara	Studds
Cubin	Matsui	Stump
Danner	McCarthy	Stupak
de la Garza	McDermott	Tanner
DeFazio	McHugh	Tate
Dellums	McInnis	Tauzin
Dicks	McIntosh	Taylor (MS)
Dingell	McKinney	Tejeda
Dooley	Meehan	Thompson
Doolittle	Meek	Thornberry
Doyle	Menendez	Thornton
Duncan	Metcalf	Thurman
Dunn	Miller (CA)	Tiahrt
Durbin	Mineta	Torres
Edwards	Minge	Towns
Emerson	Mink	Trafficant
Engel	Moakley	Tucker
Ensign	Mollohan	Velazquez
Evans	Montgomery	Vento
Farr	Moorhead	Vislosky
Fattah	Murtha	Volkmer
Fazio	Myers	Vucanovich
Fields (LA)	Nadler	Walsh
Fields (TX)	Ney	Waters
Filner	Oberstar	Watt (NC)
Foglietta	Obey	Waxman
Foley	Olver	Whitfield
Forbes	Ortiz	Wicker
Franks (CT)	Orton	Williams
Frisa	Parker	Wilson
Funderburk	Pastor	Wise
Furse	Payne (NJ)	Woolsey
Gejdenson	Payne (VA)	Wynn
Gephardt	Pelosi	Young (AK)

NOES—198

Abercrombie	Ballenger	Berman
Andrews	Barr	Bilbray
Archer	Barrett (NE)	Blute
Armey	Barton	Boehlert
Bachus	Bateman	Boehner
Baesler	Beilenson	Bonilla
Baker (CA)	Bentsen	Bono
Baker (LA)	Bereuter	Brownback

Bryant (TN)	Hilleary	Morella
Bunning	Hobson	Myrick
Burr	Hoekstra	Neal
Buyer	Hoke	Nethercutt
Calvert	Horn	Neumann
Canady	Hostettler	Norwood
Cardin	Houghton	Nussle
Castle	Hoyer	Owens
Chabot	Hutchinson	Oxley
Chambliss	Hyde	Packard
Christensen	Inglis	Pallone
Clinger	Johnson (CT)	Paxon
Coble	Johnson (SD)	Porter
Collins (GA)	Johnston	Portman
Cox	Jones	Pryce
Coyne	Kaptur	Quinn
Cunningham	Kasich	Radanovich
Davis	Kennelly	Ramstad
Deal	Kim	Regula
DeLauro	King	Rivers
DeLay	Kingston	Rohrabacher
Deutsch	Klecza	Ros-Lehtinen
Diaz-Balart	Knollenberg	Roukema
Dickey	Kolbe	Royce
Dixon	LaFalce	Sanford
Doggett	Lantos	Sawyer
Dornan	Largent	Saxton
Dreier	Latham	Schiff
Ehlers	LaTourette	Schumer
Ehrlich	Lazio	Sensenbrenner
English	Leach	Shadegg
Eshoo	Lewis (CA)	Shaw
Everett	Lewis (KY)	Shays
Ewing	Lightfoot	Skeen
Fawell	Linder	Smith (MI)
Flanagan	Livingston	Smith (NJ)
Ford	LoBiondo	Smith (TX)
Fowler	Longley	Talent
Fox	Lowey	Taylor (NC)
Frank (MA)	Lucas	Thomas
Franks (NJ)	Luther	Torkildsen
Frelinghuysen	Maloney	Torricelli
Gallely	Manton	Upton
Ganske	Manzullo	Waldholtz
Gekas	Markey	Walker
Gibbons	Martini	Wamp
Gilchrest	McCollum	Ward
Gillmor	McCrery	Watts (OK)
Goodlatte	McDade	Weldon (FL)
Goodling	McHale	Weldon (PA)
Goss	McKeon	Weller
Greenwood	McNulty	White
Gunderson	Meyers	Wolf
Hansen	Mfume	Wyden
Hastert	Mica	Yates
Hayworth	Miller (FL)	Young (FL)
Hefley	Molinari	Zeliff
Heineman	Moran	Zimmer

ANSWERED "PRESENT"—3

Collins (IL)	Reynolds	Rush
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NOT VOTING—5

Brown (FL)	Frost	Solomon
Flake	Hastings (WA)	

□ 1340

Mr. MARKEY, Ms. RIVERS, and Messrs. PALLONE, MANZULLO, and FRANK of Massachusetts changed their vote from "aye" to "no."

Ms. MCKINNEY, Mr. FRANKS of Connecticut, Mr. DURBIN, Ms. HARMAN, Mr. GONZALEZ, Ms. MCCARTHY, Ms. DUNN of Washington, and Mr. OLVER changed their vote from "no" to "aye."

Mr. REYNOLDS changed his vote from "aye" to "present."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FLAKE. Mr. Speaker, because of an unavoidable detainment on the way from the White House, I missed rollcall vote no. 101. Had I been present, I would have voted "yes."

□ 1340

AMENDMENT OFFERED BY MR. TRAFICANT

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

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 3, line 14, strike the close quotation mark and the period which follows.

Page 3, after line 14, insert the following:

"(d) LIMITATION.—This section shall not apply with respect to a search or seizure carried out by, or under the authority of, the Internal Revenue Service."

Mr. TRAFICANT. Mr. Chairman, I want this amendment to be understood. I want it to be debated.

The House has evidently reviewed behavior. I want all the Members in the back to hear this amendment, and I want your vote. The American people want your vote.

Evidently, we have discussed conditions under which some of us may, in fact, in some areas support the bill and in other areas where Congress has some significant reservations.

My amendment is not reactive. My amendment is strictly prevention. Now, I would like to urge the Members of Congress to consider that an ounce of prevention is worth a whole pound of cure.

My amendment states that this section shall not apply with respect to a search or seizure carried out by the Internal Revenue Service.

Ladies and gentlemen, we have an Internal Revenue Service that has taken license and has, in fact, intruded the kitchens and the family rooms of the American people on many cases. Those cases are now legendary.

In the matter of Alex and Kay Council of North Carolina, their accountant advised them under a windfall profit they made on the sale of a business that there was a legitimate tax shelter for a specific investment; they took it. The IRS found difficulty and ruled that the tax shelter was not allowed.

And the case was finally adjudicated, the notice of deficiency was sent to the wrong address. The IRS said they have no bounds by the Congress of the United States to prove they made a proper notice.

In the case of Alex and Kay Council, Alex Council, completely frustrated, finding no other ways to fight this large agency that he reported to that was out of control, took his life and left instructions how his life insurance policy will allow for, in fact, that death benefit on his suicide, and how she could apply that insurance policy, that life insurance policy, to fight the Internal Revenue Service, and she did.

It has come to the point where the Internal Revenue Service is certainly charged with an important task by our Government, Mr. Chairman, but Congress, through a lack of oversight, has allowed this agency to become a little intrusive, even to the point where they enjoy the only exemption under the burden-of-proof statutes of the Bill of Rights which I want to commend the majority party for giving an oppor-

tunity for a hearing for that in the future.

My amendment basically says, "Look, the IRS has so much intrusive power now that to give any more further license would be not in good conscience of the Congress of the United States of America," understanding the legendary behavior of this agency.

□ 1350

Now I am not talking about FBI, DEA, ATF, that I recommend to the Congress that all those agencies be put up under one. There is no coordination, as a former sheriff, there is no, or very little, coordination of them anyway. I would not be surprised to have the CIA and DEA thrown up under the FBI, too, with an international section.

But I am not talking about that now. I am talking about a taxpayer who is at the mercy, some of them have taken their own lives, and Congress has been silent for too long.

Now, yes, we have taken these technicalities and these pursuits of criminals, and we have weighed them heavily on the side of the criminals, and there is a debate in this House that perhaps was long overdue regardless of how you will vote on this issue.

But what the Traficant amendment says is this is not normal business, even under this particular law that is being debated.

If we continue to open up and give more license to an agency that has already turned their back on the Congress, I believe we will fail each and every one of our constituents here today. I do not know how many of your constituents are going to have their door kicked in or are going to be blown up in Waco, TX, and I certainly do not like that, and I agree there should be a hearing on what happened to the Weaver family in Idaho and what happened out there in Waco.

The CHAIRMAN pro tempore (Mr. BURTON). The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

(By unanimous consent, Mr. TRAFICANT was allowed to proceed for 4 additional minutes.)

Mr. TRAFICANT. But what I am talking to you about today is your mother, your father, your grandparents, your children, your neighbor, your mailman, the truck drivers, the clearly, and every business, big or small, in your district. Every American that is afraid, and even afraid to say they are afraid, for every American who has been intimidated in some back room, it is legendary.

So I am not here today citing abuses, and I am not taking off on the IRS. What I am saying to you, though, is there is a reasonable level of prevention that is necessary when you establish law. And there is a prevention element that necessitates this amendment.

I am asking for your vote. The American people are looking for some support from the Congress of the United States, and the American people in poll