

1654

IN THE COMMITTEE OF THE WHOLE

Mr. Speaker, this is an open rule, providing for fair consideration of a bill that sends a clear message to criminals that we will not tolerate witness intimidation or jury tampering. I urge my colleagues to support the rule and the underlying bill.

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

Mr. BEILENSEN. Mr. Speaker, I thank the gentlewoman from Utah [Ms. GREENE] for yielding the customary half hour of debate time to me and I yield myself such time as I may consume.

We support—we welcome—this open rule for the consideration of H.R. 3120, legislation that would increase penalties for witness retaliation and jury tampering.

This is one in a series of popular, and relatively modest, anticrime bills reported by the Judiciary Committee, two of which the Rules Committee granted open rules for last week.

We congratulate the majority for finding bills they are willing to bring to the floor without restrictions—even though we do wish that some of these open rules had been provided for bills that are more substantial than the two narrowly drawn pieces of legislation we shall be debating today.

Some Members are concerned about the provisions of the bill the rule makes in order. As several members of the Judiciary Committee noted in dissenting views, they do not oppose severe penalties for those who intimidate, tamper with or retaliate against witnesses or jurors.

They do, however, believe current law may be adequate, and question the need for these enhanced penalties. There is also a fear that the severe penalties may be disproportionate to the crime and could lead to results that are unjust.

In any event, Mr. Speaker, we support this open rule for H.R. 3120. I urge my colleagues to approve the rule so that we can move on to the debate over the specific provisions of this legislation.

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

Ms. GREENE of Utah. Mr. Speaker, we have no additional requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CRIMES AGAINST CHILDREN AND ELDERLY PERSONS INCREASED PUNISHMENT ACT

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to House Resolution 421 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2974.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2974) to amend the Violent Crime Control and Law Enforcement Act of 1994 to provide enhanced penalties for crimes against elderly and child victims, with Mr. LATOURETTE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes and the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill, introduced by Mr. CHRYSLER of Michigan, would increase the length of the sentence for violent crimes against children 14 years of age and younger, seniors 65 years and older, and vulnerable persons. I would do so by directing the Sentencing Commission to provide a sentencing enhancement of not less than five levels above the offense level otherwise provided for a crime of violence against a child, an elderly person, or an otherwise vulnerable person. The term "crime of violence" was amended at the subcommittee markup by Ms. LOFGREN, and broadened to have the same meaning as that given in section 16 of title 18 of the United States Code, which is:

An offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense:

Mr. CHRYSLER introduced this bill to provide additional deterrence and punishment for those who victimize the most vulnerable in society. The impetus for this legislation also arises from the Sentencing Commission's failure to provide any sentencing enhancement in response to a directive in the 1994 Crime Act. The act directed the Commission to ensure that the applicable guideline range for a defendant convicted of a crime of violence against an elderly victim is sufficiently stringent to deter such a crime, and to reflect the heinous nature of such an offense. The Commission determined to make no sentencing enhancement in response to this directive. I believe that H.R. 2974 is an appropriate and measured attempt to ensure that the guideline penalty accomplished the goals Congress established in its 1994 directive.

While the bill applies only to Federal crimes, another purpose of this legislation is to establish a model for State criminal justice systems. Only a uni-

form approach which communicates society's intolerance for these heinous crimes will provide sufficient deterrence.

I am pleased that it received the bipartisan support of the Crime Subcommittee, and the full Judiciary Committee. I want to thank Mr. CHRYSLER for his leadership in this area.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentlewoman from California [Ms. LOFGREN], a distinguished member of the committee.

Ms. LOFGREN. Mr. Chairman, no person should be a victim of crime particularly a crime of violence. But we are particularly offended when a victim is especially vulnerable, when that victim of violence crime is a child, when that victim is a frail person or another person who is particularly unable to protect themselves.

I think this bill speaks to that and says that as a society we are going to make sure that we have raised the standard of protection for the most vulnerable among us. Although criminal law serves many purposes, one of the functions of criminal law, be it at the State or Federal level, is to set the standards for what society expects of each of us.

Mr. Chairman, I am pleased that I was able to work on a bipartisan basis with members of the committee to strengthen the bill, to broaden the definition of violent crimes as suggested by the Justice Department, to raise the definition of the child from 11 to 14 so it would include those up to but not including 15-year-olds, as well as to add a provision about other vulnerable persons. Mr. Chairman, I think this bill is sound.

Mr. Chairman, I would also note that the Justice Department has just released a Bureau of Justice Statistics report on sentencing patterns in violent crime, and note that on average, offenders who commit violence against a child serve and are sentenced to shorter sentences than those who victimize adults, which is confusing and inexplicable. This bill would help remedy that anomaly.

Mr. Chairman, there will be at least two amendments that I am aware of that will strengthen the bill and are measures that I support wholeheartedly, but world not, I believe, have been germane in committee. But I did want to address the overall bill and congratulate those who have worked on it, and to urge my colleagues to support it.

□ 1700

Mr. MCCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN].

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

Mr. CHRISTENSEN. Mr. Chairman, today I rise in support of the gentleman from Michigan's bill, H.R. 2974, the Crimes Against Youth and Elderly Increased Punishment Act of 1995.

For too long, the most vulnerable groups in our society have been preyed upon by hardened criminals.

Our children should not be forced to walk home from school in fear.

Our senior citizens should not live in a society that fails to punish those who perpetrate heinous crimes against them.

These two groups desperately need us to provide for their safety and security.

I believe this legislation will help reduce crimes against them.

Though crime may be going down in some isolated areas, it is still getting worse in our smaller cities and in our towns. For tight-knit communities like Omaha, NE, this new wave of crime is a shock.

It seems as though nothing can stop the victimization of our innocent citizens.

There has been a steady increase in crime as penalties have softened—and criminals have hardened.

For example: Crimes against our senior citizens doubled between 1985 and 1991, a mere 6 years, and have steadily risen since.

In the past Congress has doubled penalties against drug dealers in protected areas around our schools. Now it is time to put a protected area around our Nation's seniors and children, wherever they may be.

Let us double penalties for these cowardly criminals that prey upon the very young or those who have reached their golden years, which should be care-free.

Crime is the enemy of our modern-day society.

It is time to send a message to the criminals, to their slick criminal defense attorneys that push them to freedom through legal loopholes, and to our entire criminal justice system that all too often favors the criminals over their victims.

That message is that America has a zero-tolerance for crime and the outlaws that commit them.

Again, Mr. Chairman, I would like to thank the gentleman from Michigan for introducing this thoughtful and timely piece of legislation. A vote for H.R. 2974 is a vote for the protection of America's children and America's senior citizens.

Mr. CONYERS. Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. BUYER], a member of the committee.

Mr. BUYER. Mr. Chairman, I appreciate the gentleman's leadership on this issue. I also thank the gentleman from Michigan, Mr. DICK CHRYSLER, for his thoughtful time and concern on this bill.

Mr. Chairman, I support the bill before us, which provides enhanced penalties for crimes where the victim is a child or a person over the age of 65. We want to take care of those who are most vulnerable in our society, especially when we look back at some of

the crime statistics and see that from 1985 to 1991, there was a 90 percent increase in personal crimes committed against senior citizens; that is, from 627,318 to 1.1 million. While the overall homicide rate decreased from 1985 to 1993, there was a 47 percent increase in the homicide rate for children. And in 1992, one out of every six reported rape cases was a female under the age of 12.

When criminals see our children or the elderly, perhaps, as the enemy or as ripe targets for a successful outcome to violent behavior, I believe it is very deserving of our contempt. They are also deserving of harsher sentences. They are preying upon the most vulnerable members of our society and very often they are not able to defend themselves. It is very appropriate that we should provide enhanced penalties against such reprehensible attacks.

Let me also thank the gentlewoman from California [Ms. LOFGREN] for her amendments to this bill that in fact improved the bill. There are only so many tools before us that we can use in guidance and leadership to the States. Right now, under our sentencing guidelines, we have the philosophies of education, prevention, retribution, deterrence, and rehabilitation. We have been involved in this trend toward greater prevention and rehabilitation, and we are asking, victims of our society are asking, what about retribution, what about deterrence? And if we do not begin to move toward harsher penalties against these criminals, then the victims are going to say, what about me?

If they do not feel the retribution, it begins to breed contempt with regard to vigilantism. That is not good and it is not healthy in a free and lawful society. If people live in fear, then they are really not free. So what we are trying to do on the Committee on the Judiciary, not only with this bill but with others, is to enhance the penalties and go after the real thugs, the criminals, whether it is in the gun legislation, if they use weapons in the commission of a crime, they should feel our contempt. They should feel our harsh penalties. Go after the thugs.

If these thugs prey upon the elderly and prey upon the children, they should feel our contempt. They should feel the harsh penalties. If they are going to commit a rape against a female under the age of 12, we should have these Federal judges enhance the penalties against them. Let us pass this bill.

Mr. CONYERS. Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Chairman, I rise today in strong support of this bill which seeks to give more protection to our most vulnerable and innocent citizens—our children and our seniors.

More specifically, H.R. 2974 would amend the 1994 crime bill by requiring the U.S. Sentencing Commission to issue tougher punishment for crimes

against children and the elderly, due to an increase in crimes targeted at these two populations. According to the Department of Justice factsheet on missing children, every year there are between 1,600 and 2,300 stranger abductions of children under age 12 in the United States.

Mr. Chairman, this is tragic and unacceptable. We must send a clear message to criminals who prey on the defenseless—their actions will result in swift and certain punishment.

Last summer in my congressional district in Arkansas, Morgan Nick, a 6-year-old girl, was abducted from the Alma ballpark while attending a little league baseball game. After 11 months of tireless searching, Morgan has still not been found.

Mr. Chairman, I can assure you that there has not been a day that has passed in which Morgan's family and friends haven't pursued every avenue that may lead them to Morgan's recovery. Morgan's mother, Colleen Nick, has been in touch with me on several occasions since last June to appeal for my assistance in this heartbreaking situation.

At Christmastime, Mrs. Nick appeared on an Oprah Winfrey segment about the recovery of missing children. She has also met with the President in Little Rock to ask for his assistance. Additionally, information about the case has been broadcast on two segments of the television show "America's Most Wanted."

Children in Arkansas, and everywhere in America, deserve the full protection for the law. They are virtually defenseless, yet they are the future. Adopting tougher penalties is a vital part of ensuring greater protection of society's most vulnerable citizens, while sending a clear message to the violent criminals of tomorrow.

Mr. Chairman, I believe that those who are truly committed to our children and to the elderly—to citizens like little Morgan Nick—will support H.R. 2974. I urge a "yes" vote on this legislation.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. MANTON] in support of the bill.

Mr. MANTON. Mr. Chairman, every day in New York City criminals seek out those most vulnerable to attack. It is no surprise that these victims are often too young, or too old, to effectively defend themselves. As a result, many young and elderly Americans live in constant fear, remaining in virtual isolation, too afraid to leave their apartments for groceries or a walk in the park.

It is an unfortunate fact that today's cities are plagued by violence and crime. Unless we as legislators address these problems, tragedy will continue to befall those least able to help themselves.

Mr. Chairman, our Nation's children and seniors look to law enforcement officials for protection, and to the judicial system for justice. Increasing the

penalties for violent crimes committed against vulnerable people will ensure that these criminals do not get away with their heartless and cowardly behavior.

As a cosponsor of this legislation, I urge my colleagues to demonstrate their commitment to the safety and well-being of the young and the old in their districts by supporting this most important bill.

Mr. MCCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS], a member of the committee.

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding time to me. We as a society, and the Congress as a microcosm of that society, have very few tools at our disposal with which to fight crime except the power of making laws which could be very significant. I believe that the current crime statistics, which seem to show a slowdown in some of the major crimes, are as a result of the tougher stands that local and Federal officials have taken over the past 10 years, with tougher penalties and tougher ways of dealing with the criminal in a deterrent way. If we cannot make our laws constitute a deterrent to crime, then we have failed miserably.

We believe that the legislation that is now at hand with respect to the crimes to be committed in the future against children, that these elements will act as a deterrent. What is special about this is that, if a criminal about to commit a crime on a young person realizes through the broadcasting and through the dissemination of the information that is going to come from our action here today, we may be able to prevent serious crimes against our children. It is worth a chance for the deterrent value alone.

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

Mr. Chairman, we are considering the Crimes Against Children and Elderly Persons Prevention and Protection Act. There have been comments and criticisms raised that this legislation was necessary because the Commission on Sentencing did not implement adequately the congressional directive found in the violent crime bill of 1994. I wish to review this for the edification of the Members because the legislative language that we instructed the Sentencing Commission was thought to not require specific amendment action on the part of the Sentencing Commission but, rather, required an analysis, a thorough analysis, of certain areas of the guidelines to ensure that those identified objectives were going to be obtained.

The Sentencing Commission conducted that analysis as instructed and, contrary to assertions that have been made here on the floor, it also additionally amended the guidelines to better address the desired objectives.

I am suggesting that the Sentencing Commission has not been sleeping on the job but as a matter of fact has been

doing precisely what the committee, through the Congress, has instructed them to do.

The crime bill, at a particular section, 240002, of the 1994 crime bill, specifically directed the commission to ensure the guidelines provided sufficient and stringent punishment for those convicted of the crime of violence against an elderly victim. The directive established that the following objectives that the guidelines should achieve are as follows: One, increasingly severe punishment commensurate with the degree of physical harm caused to the elderly victim; two, an enhanced punishment based upon the vulnerability of the victim; and, three, enhanced punishment for a subsequent conviction for a crime of violence against an elderly victim.

In response to the directive, the Sentencing Commission then analyzed the available sentencing data, the relevant statutory and guideline provisions. They also solicited the views of all interested parties on other amendments that might be relevant to the guidelines.

□ 1715

All of the commentators asserted that, in their view, the existing guidelines sufficiently account for the congressional concerns that were embodied in the directive. Nevertheless, the Commission, in addition, identified two ways in which it believed the guidelines could be amended more fully and effectively and addressed those concerns about the harm to children and elderly victims to see that they are appropriately punished.

Here is what the commission did: It clarified the commentary of the vulnerable-victim guideline to broaden its applicability. Then they added an application note specifying that a sentence above the guideline ranges may be warranted if the defendant's criminal history includes a prior sentence for an offense that involves the selection of a vulnerable victim.

These amendments became effective November 1, 1995, following congressional review. Thus, while it may be that some of us now believe that the commission should have done more, I think the record should reflect that the directive, while it required most specific amendment action, nevertheless in two significant respects the commission, in fact, did amend the relevant guidelines. And so the Congress presumably reviewed these changes, and I think we did, and raised no issues as to their inadequacy at the time.

So we now are operating under the false assumption that the Sentencing Commission has not been cooperating or working with us in terms of the directives that we gave them, and I think that the opposite is the case.

Under these circumstances, Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I just would like to respond slightly to the gentleman from Michigan in making the point that while he is correct that the Sentencing Commission did indeed make some adjustments in the guidelines to the extent of language describing those conditions under which greater penalties might be appropriate, they were not literal sentence enhancement in terms of the levels that the Sentencing Commission establishes for the various crimes that would take into account the specifics of the age of the person who was the victim, which is what this does, and it is that which distinguished this legislation.

Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE], the distinguished chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Chairman, I rise today in strong support of H.R. 2974, the Crimes Against Children and Elderly Persons Increased Punishment Act, which was introduced by my good friend from Michigan, DICK CHRYSLER. This bill was introduced because the U.S. Sentencing Commission failed to satisfy the mandate of the 103d Congress for cases involving elderly victims.

In 1994, Congress specifically directed the Sentencing Commission to "ensure that the applicable guidelines range for a defendant convicted of a crime of violence against an elderly victim is sufficiently stringent to deter such a crime, to protect the public from additional crimes of such a defendant, and to adequately reflect the heinous nature of such an offense." This provision was enacted because Congress believed that the sentencing ranges for crimes against the elderly were inadequate and need to be raised. At that time, bowing to the argument that the Commission should be left to decide the level to which the sentences should be increased, Congress provided the Commission with some flexibility.

Unfortunately, nothing has happened other than the Commission providing an explanatory note that a departure from the guidelines might be warranted in cases involving a second crime against a vulnerable victim. This provides no deterrent effect because guideline departures are purely discretionary.

Thus, the Commission has disregarded the clear desire of Congress to increase the penalties for crimes against the elderly. So, as is our right, Congress is now directing the Sentencing Commission to raise the sentences by specific levels.

This bill not only directs the Sentencing Commission to raise the guideline levels for crimes committed against the elderly, but also to raise the applicable guidelines for those crimes committed against those under the age of 14. The bill adds five levels to each guidelines calculation, which is used to determine a criminal defendant's sentence. This works out roughly to increasing the defendant's sentence by another 50 percent.

This is appropriate, given that additional deterrence and punishment must be provided to protect the most vulnerable in our society. From 1985 to 1991 there was a 90 percent increase in personal crimes committed against senior citizens. There was also a 47 percent increase in the homicide rate of children. In 1992 alone, one out of every six rape victims was a female under the age of 12.

Not even those providing dissenting views in the committee report on H.R. 2974 argue against the substance of this measure. Instead, they want to continue to leave this decision to the discretion of the Sentencing Commission. We have been there and done that.

The Sentencing Commission has had 2 years to follow the expressed will of Congress and has failed to act. Their virtual inaction following enactment of the 1994 law justifies legislative action now to increase these penalties.

I urge adoption of this bill.

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

Mr. Chairman, this measure before us, there seems to be a little amnesia in the committee. This bill before us is operating as if the Sentencing Commission never acted upon our directives. If my colleagues will examine the records of the Committee on the Judiciary, the action that the Sentencing Commission took pursuant to our directives was submitted to the Committee on the Judiciary's Subcommittee on Crime, it went to the full Committee on the Judiciary, it was accepted by everybody on both committees, and now we come to the floor criticizing the Sentencing Commission as if they had never acted.

So I want to point out that we ought to at least show that there was no one that objected, at least during the time that I was present in both the subcommittee and the full committee, on the inadequacy of the way that they, the Sentencing Commission, dealt with the directives that we gave them.

They acted, they sent them back, we accepted them, it became part of the law, and now today we meet under the anxious gentleman from Michigan [Mr. CHRYSLER], who has determined that there must be more done and that somehow the Sentencing Commission, not the Committee on the Judiciary, has failed in its responsibility.

Mr. Chairman, I think that that is an inaccuracy, and no matter what we do here today, the least we can do is acknowledge the correct chronology of what has taken place that has led us to this point in the creation of criminal law at the Federal level.

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

Mr. MCCOLLUM. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I simply wish to respond to the gentleman from Michigan by pointing out once again that what the Sentencing Commission did that we did not disagree with was to improve, qualify, change the commentary

with regard to sentencing guidelines concerning the use of those guidelines with respect to children and the elderly.

It did not in any way enhance the penalties. It did not change the levels that would require the courts to impose greater penalties in those cases involving children and elderly, which is what this bill does today.

Mr. Chairman, I yield 1 minute to the gentleman from Ohio, [Mr. CHABOT], a member of the committee.

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

Mr. CHABOT. Mr. Chairman, I rise in strong support of the bill offered by my good friend from Michigan, Mr. CHRYSLER.

As a member of the Subcommittee on Crime, I can tell my colleagues that the gentleman from Michigan has done just outstanding work in putting this bill together and in shepherding it through the legislative process. I would also like to commend the gentleman from Illinois [Mr. HYDE] and the gentleman from Florida [Mr. MCCOLLUM] for their leadership in this bill.

Tough punishment deters crime, and we need to be tougher with the criminal scum who prey upon the most vulnerable members of our society, our children and our senior citizens. In passing this bill, Congress will be doing that it is supposed to do under the Constitution, setting policy. We should not blindly delegate that responsibility. It is our job as policymakers to direct the Sentencing Commission when we think the guidelines need improvement.

They need improvement, Mr. Chairman, to provide greater protection for children and the elderly, and therefore I strongly urge adoption of this bill.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I thank the ranking member for yielding me this time on general debate.

Mr. Chairman, I am not real sure what this is all about, since the Sentencing Commission seems to have done what this Congress requested them to do, and one suspects that it may be more about election-year politics and beating oneself on the chest about how hard we are on crime than it is about the actual penalties that go for these kinds of offenses.

Having said that, I mean I think there is nobody who can argue with the notion that penalties should be more severe for bullies who beat up on young people and the elderly. I do not think anybody in this body disagrees with that. What we do disagree with, Mr. Chairman, however, is that the Sentencing Commission and the policy underlying the establishment of the Sentencing Commission is that we want to get politics out of making a determination of what appropriate sentences should be in criminal cases.

The primary purpose of having a sentencing commission was to create a fair and equitable set of sentencing guidelines free of political considerations, and, notwithstanding that, we have several times in the context of this Congress made an effort to undermine that primary purpose and to make ourselves appear harder on crime and, presumably, make ourselves more electable.

So what I intend to do at the point in which we get to the amendment process is to try to correct the real problem with this bill. If we want sentences enhanced, we have a process by which that can happen. It should happen as a matter of policy through the U.S. Sentencing Commission. They ought to make an orderly evaluation, as they apparently already have. They ought to enhance the penalties, which they already have enhanced the process, for getting to a more stringent penalty when the offense is against young people and elderly people, and we ought to let them do their job and stay out of the way.

Mr. Chairman, I hope that we can overcome our desire to gain political points and, hopefully, we can send a request to the Sentencing Commission to review this matter again, if that is what we want to do; that is what my amendment would do.

□ 1730

However, let us not forget about the underlying public policy rationale for setting up the Sentencing Commission in the first place, that public policy rationale being to accept politics and our desire to appear tougher on crime, sometimes irrationally, sometimes rationally, but the objective should be always to have a rational decision made about these things outside of the context of political considerations; and in that way, a consistent set of principles can be applied without all of the emotion that sometimes gets us inflicted in the political process.

Having said that, I will wait until I offer my amendment to discuss this matter further.

Mr. MCCOLLUM. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan [Mr. CHRYSLER], the author of this piece of legislation.

Mr. CHRYSLER. Mr. Chairman, I would like to thank Chairmen MCCOLLUM and HYDE for all of their hard work in helping to pass this important bill in their committees.

Mr. Chairman, today I am offering what I believe is very important and much-needed legislation, the Crimes Against Children and Elderly Increased Punishment Act.

Day after day, we see news accounts of criminals committing violent acts throughout our communities, only to walk away with little or no punishment. You only need to watch the local evening news on any given night to see the havoc criminals create in our neighborhoods.

Too often, these criminals are not deterred from their violent actions because they know the expected benefits of their crimes far outweigh any possible penalties they might suffer.

If we are to decrease the rate of crime in our country, I believe it is time for the criminals to be more afraid of punishment, than we are afraid of the criminals. Quite simply, it is time to put punishment back into the criminal justice system.

While crimes of any degree are unacceptable, it is especially disturbing when violent criminals hurt those least able to defend themselves: children, senior citizens, and the disabled. That is why I introduced the Increased Punishment Act.

The premise behind the legislation is simple: we must say to every criminal who thinks of going after an easy target: if you are such a coward that you would prey upon the most defenseless in our society, then you will face an automatic increase in your punishment. You will spend more time behind bars—almost double the normal sentence—for your cowardly, violent actions.

The Crimes Against Children and Elderly Increased Punishment Act provides for an automatic increase in the length of the criminal sentence for crimes committed against victims 14 years of age and under, those age 65 years and older, or those with a physical or mental disability.

For example, someone convicted of the robbery of a senior citizen would face a minimum prison sentence of 2½ to 3½ years under current guidelines. Under the Increased Punishment Act, the minimum sentence becomes 4½ to 6 years, adding another 2 to 3 years behind bars.

Mr. Chairman, crimes against children and senior citizens across the country today are serious, and remain at intolerable levels. This must not continue.

The 1994 crime bill suggested increased penalties for crimes committed against children and the elderly, but the Sentencing Commission did not take action on this recommendation. It is clear that we must now insist upon stricter sentences for crimes against these vulnerable victims.

Increasing the penalties for those who would hurt children, senior citizens, or the disabled will provide the needed protection for these citizens, while giving criminals the punishment they deserve. This legislation will send a clear signal to those who commit these cowardly acts that their actions will not be tolerated and they will face certain and severe punishment. Criminals must know that if they are to inflict harm upon our children, seniors, or the disabled, there will be a heavy price to pay.

The 104th Congress has already passed a series of crime bills that require prisoners to serve at least 85 percent of their sentences, limit death row appeals, and require restitution to the

victims of crime. This bill is another step in the right direction toward a safer, more secure America.

American families have a right to be safe in our homes, on our streets, and in our neighborhoods. If criminals seek to violate this right, they should expect swift and severe punishment. The Crimes Against Children and the Elderly Increased Punishment Act seeks to send this very message to criminals.

Mr. Chairman, I urge support for this important bill for our families.

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

Mr. Chairman, I would ask the gentleman from Michigan [Mr. CHRYSLER] for his attention for a moment, please. Mr. Chairman, I would like the gentleman to indicate to us if he is familiar with the Sentencing Commission's process in terms of enhancing or adding penalties to the crimes that he complains of.

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

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

Mr. CHRYSLER. Yes, Mr. Chairman. There are 43 levels in the increased Federal Crime Commission right now. What we do is increase the penalties by five levels with this bill. In 1994, in the crime bill—

Mr. CONYERS. The gentleman is familiar with the process. I am glad to know that. Did the gentleman know that Congress directed the Sentencing Commission to address the problem of which he complains?

Mr. CHRYSLER. Yes. If the gentleman will continue to yield, and if he would have continued to listen, I was going to say that in 1994 in the crime bill, which I did say in my remarks, by the way—

Mr. CONYERS. Mr. Chairman, I need my colleague to respond to my questions on my time. Is he aware of the fact that we directed the Sentencing Commission to deal with the problem of which he complains today?

Mr. CHRYSLER. There was a suggestion. They did not choose to implement it. I am trying to answer the gentleman's question, if he will yield and allow me to do that. In my prepared remarks I addressed that.

Mr. CONYERS. Tell me the answer, sir.

Mr. CHRYSLER. The answer is that in the 1994 crime bill, it was suggested that they increase the penalties. The commission chose not to do that. That is why this legislation is necessary.

Mr. CONYERS. Is the gentleman aware of the fact that the Sentencing Commission's recommendations cannot go into effect without the Congress acquiescing in them? And when they came back to the Subcommittee on Crime, unfortunately of which the gentleman is not a member, but is probably always welcome, and when they came to the full Committee on the Judiciary, the committee members, the gentleman from Florida [Mr. MCCOLLUM], myself, and even our chairman,

the gentleman from Illinois [Mr. HYDE], all acquiesced in the Sentencing Commission's response to the directive that we issued. Is the gentleman aware of that?

Mr. CHRYSLER. If the gentleman will continue to yield, in the 103d Congress that did in fact happen. This is the 104th Congress and we are going to make it a law.

Mr. CONYERS. I would like to find out if the gentleman understood the question. Is the gentleman aware of the fact that we accepted the recommendations of the Sentencing Commission?

Mr. CHRYSLER. In response, I answered the question. I am aware it happened in the 103d Congress. This is the 104th Congress. It did not become law in the 103d Congress, it became a suggestion. I am answering the gentleman's question. By asking the question over and over, you will not get a different answer.

Mr. CONYERS. Just a moment, sir. May I remind the gentleman of the date when the Sentencing Commission returned their reply to our directive? It was November.

Mr. CHRYSLER. That was in the 103d Congress, sir.

Mr. CONYERS. I would say to the gentleman, Mr. Chairman, it was the 104th Congress, and he was a Member of it.

Mr. Chairman, I find that my colleague and dear friend, the gentleman from Michigan, thought that this occurred in the 103d Congress. The fact of the matter is that it occurred in the Congress in which he was a Member. We were all here in November 1995, we were sober, it was in broad daylight, they sent it over from the Sentencing Commission. It came to the Subcommittee on Crime, chaired by the gentleman who wishes me to yield time for him to explain, and then we took it up to the full committee. It was accepted. That is the only way the Sentencing Commission's guideline directives can become law, sir. It cannot become law unless the Congress allows it. We permitted it.

Nobody, including the gentleman from Michigan [Mr. CHRYSLER], objected to it. The gentleman from Michigan [Mr. CONYERS] did not; the gentleman from Illinois [Mr. HYDE] did not; the gentleman from Florida [Mr. MCCOLLUM] did not. Neither did the gentleman.

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

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I simply wish to respond to the gentleman from Michigan. I think he is carrying this, with all due respect, to an extreme degree here in this case, because the truth of the matter is yes, the Sentencing Commission set up a recommendation that we accepted. The gentleman from Michigan [Mr. CHRYSLER] accepted it. Our committee did. We did not even bring it out on the floor for him to vote on because

he is not a member of the Committee on the Judiciary.

The truth of the matter is that what they proposed to do did not enhance the penalties, which is what the bill of the gentleman from Michigan [Mr. CHRYSLER] does. All they did is write some commentary. I have it here, chapter and verse, in this book that is before me, the Guidelines Manual, November 1, 1995.

What they have done in this is they have left the levels of increase for the type of crimes against children and adults or senior citizens, like we have here, at exactly the same level as they were before they sent their recommendations out. Yes, they did change the commentary. The commentary is what they give as general discussion about, oh, well, we think you might do this or consider that in these certain circumstances, but the levels, which are the technical levels of increasing the penalties that make requirements upon the judges, were not changed.

So, yes, I embrace and I am sure the gentleman from Michigan [Mr. CHRYSLER], and everyone else would, the change in commentary which helped a little bit, that the Sentencing Commission did, but they did not at any point increase the actual penalty for crimes against those who are 14 and under and those 65 and over, and that is precisely why we are here today with this bill, to increase those penalties up to 5 levels, which is what the gentleman from Michigan proposes, which means an average of 2 years more jail time for every single crime at the Federal level that is committed against a child or an elderly person in this country, and it could be as high as 4 years in some cases, again depending upon the crime.

I think what we are doing today is talking about mixing apples and oranges; the apples, of course, being in this case the gentleman from Michigan knowing full well that the Sentencing Commission sent something up on the commentary of this, sort of elaborating on the existing law, encouraging judges to impose certain penalties in certain situations, but not actually demanding or requiring the level increases that the Chrysler bill that we are voting on today would do.

I would submit that the Sentencing Commission did not do what at least I intended by the directive in 1994, or what I would think and would suggest that most of the Members would have interpreted it to mean. They did not increase the punishment for those who had committed these kinds of crimes.

□ 1745

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

Mr. MCCOLLUM. I yield to the gentleman from Illinois.

Mr. HYDE. I would just like to ask my friend from Michigan, when he stops gesticulating, if he would tell me, is he opposed to enhancing the sentences for crimes of violence against minors, children, and elderly?

Mr. CONYERS. No, sir.

Mr. HYDE. I did not think so.

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

Mr. MCCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, I just want the Chairman to know what I am opposed to is political posturing, and I think that is what we are doing here, because the response that we got from the Sentencing Commission indicates that this matter has been addressed. We can all kind of go home and run on various things, but our obligation is to make public policy here, and not just stand up and give the gentleman from Michigan [Mr. CHRYSLER] or any other member of this body something to go home and run on.

Mr. MCCOLLUM. Reclaiming my time, there is no political posturing going on at this point. There is the reality. The reality is, the Sentencing Commission recommendation that they sent up that we approved did not mean that anybody is going to get another day in jail because they commit a crime against a juvenile or an elderly person on a Federal reservation.

This bill would guarantee they would get that under any sentence that they were given. It would guarantee they would be increased by 5 levels, which means in most cases at least 2 years more in jail. But what the Sentencing Commission did would not guarantee that, would not require it, and would not mandate it. We are mandating that today.

Anything they sent up and anything that they say to the contrary notwithstanding, it is an interpretation that the chairman of the Subcommittee on Crime, myself and a lot of other people who worked on it have made, and I believe that I am 100 percent accurate about that, with all due respect to my colleagues.

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

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

It is funny how memory comes and goes in the course of a busy congressional session. Our dear friend from Michigan Mr. CHRYSLER, thought this all took place in the 103d Congress. Now we have brought him back into reality. This took place in the Congress that he was in and a Member of.

The problem with the analysis of the gentleman from Florida [Mr. MCCOLLUM], which I largely agree with, the one thing that was omitted that I have to draw to his attention, we did not direct the Sentencing Commission to enhance the penalties. We told them to look at it and see if they could do some things with it to build it up. That is what they did.

The gentleman from Michigan, my colleague in the Michigan delegation, would not know that. He is not on the committee. But you know it. And the reason we did not object when the directives from the Sentencing Commission came back was because they com-

plied with what we had asked them to do, to enhance and make it tougher for people who commit crimes against young people and elders.

The problem is, and we might as well confess it, the error may have been made in the Committee on the Judiciary and not in the sentencing. Because we gave them directions, they complied, and we accepted, unbeknownst to the gentleman from Michigan [Mr. CHRYSLER]. Here we are. He is assuming that the Sentencing Commission miserably failed.

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

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

Mr. CHRYSLER. Certainly the 103d Congress did pass the 1994 crime bill and this was part of the 1994 crime bill. It was a recommendation or a suggestion that they increase the penalties. If there was a recommendation that came back to the committee, certainly I would not be aware of that as I am not on the committee. But I do not think this is really about anything more than just doing the right thing.

Mr. CONYERS. Well, I want you to do the right thing, but if you do not do it against the background of an accurate understanding of what has happened, I mean, for example, if you want to blame the Sentencing Commission when the Sentencing Commission is not to blame, you might want to correct it.

I have already confessed publicly that I want to make these crimes subject to greater penalties. But would you not agree with me that there is a procedure set up, yes, before you got here, but you are bound by the rules like everyone else, that the Sentencing Commission shall do this? In other words, what possessed you, of all the Members in the House, and you are one of our most valuable, but what possessed you to invent these new crime penalties without the benefit of the Committee on the Judiciary, without the benefit of the Sentencing Commission, without the benefit of what?

I mean, it is a wonderful exercise when any one of us 435 Members can cruise down to the well and introduce a bill raising more penalties on anything we want, child molesters, violators of seniors. And, by the way, I notice you did not say much about the fraud that is being practiced on seniors that could be covered, and perhaps you might entertain a modification of your proposal to include that, or the environmental fraud that is committed on youngsters through pollution that corporations deal with. You might want to consider that while you are at it. But how do these great criminal justice notions occur to persons like yourself deeply concerned with this subject?

Mr. CHRYSLER. If the gentleman will yield further, we are not blaming any commission. We are just trying to offer good legislation, trying to take

the most vulnerable people in our society and protect them and take the biggest cowards in our society and put them in jail.

Mr. CONYERS. OK. So the Sentencing Commission, as far as the gentleman is concerned, has no role in this process.

Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I just think it is important for us to understand exactly what the Sentencing Commission is saying about this, so I want to read some selected excerpts from what the Sentencing Commission has said.

It says, first of all, "The commission takes very seriously its responsibilities to promptly and fully implement any directives enacted by Congress."

In response to this directive in the crime bill encouraging or directing them to review this and to increase penalties, it says,

In response to this directive, the commission analyzed available sentencing data and relevant statutory and guideline provisions. The commission also solicited the views of interested parties on needed amendments in the relevant guidelines. All commentators asserted that in their view the existing guidelines sufficiently account for the congressional concerns apparently embodied in the directive. Nevertheless, the commission identified two ways in which it believed the guidelines should be amended to more fully and effectively address concerns that those who harm child and elderly victims are appropriately punished.

First the Commission clarified the commentary and then they did some other things. Then the Commission in its own letter to us says,

Currently the commission's chapter 3 adjustment for vulnerable victims requires an increase in the defendant's sentence if a victim of the offense was unusually vulnerable due to age or was otherwise particularly susceptible to the criminal conduct.

Then they go on to say,

For example, the proposed threshold age enhancement would require a defendant who assaulted a 65-year-old victim to be sentenced almost twice as severely as a defendant who assaulted a 64-year-old victim.

That is what we are doing in this bill.

And then finally and most importantly on a policy basis, the Commission, says,

If the Congress feels that additional measures need to be taken in this area, it should direct the commission to take them without micromanaging the commission's work.

And then here is the kicker:

The commission was designed to take the politics out of sentencing policy and to bring research and analysis to bear on sentencing policy.

So here we are doing exactly the opposite of what we set up the Sentencing Commission to do, inserting politics into this, playing politics, political posturing, giving our colleagues something to go home and run on because this is an election year, and saying the heck with the public policy that is involved here. That is what the problem is here. This is not about sentencing.

The Commission has done what we asked them to do. This is about politics.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume. I just want to make one quick comment in response to all of this.

It is pretty obvious that the gentleman from North Carolina and the gentleman from Michigan do not believe that Congress should take into its hands, when it does not think the Sentencing Commission has done the right job, the completeness of that job, to come in here on the floor of the House and actually do the job that we think is right.

I do not have any problem with the Sentencing Commission, what it has done or what it usually does. It just did not go far enough. It did not suit my taste, it did not suit the taste of the gentleman from Michigan [Mr. CHRYSLER]. We happen to think that we ought to be punishing much more severely those who commit crimes against children and the elderly than anybody else, to set an example.

The Sentencing Commission had a charge. The charge from us says under the directive we passed before, they shall ensure that the applicable guideline range for a defendant convicted of a crime of violence against an elderly victim is sufficiently stringent to deter such a crime, to protect the public from additional crimes of such a defendant.

I am sure that the Sentencing Commission thinks they did a fine job and I have no problem with what they did. What I think is they did not go nearly far enough, and that is why we are here today, because they did not go as far as I believe or the gentleman from Michigan [Mr. CHRYSLER] believes, or I suggest the majority of this body and certainly the public would believe is necessary to ensure that the applicable guideline range for a defendant convicted of a crime of violence against an elderly victim or a child is sufficiently stringent to deter such a crime.

That is what this debate is about. I cannot believe that that side of the aisle over there thinks that what we are doing today is too severe.

Mr. Chairman, I yield to the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, I just want to say two things. I have listened to the gentleman from North Carolina extensively on this bill and on hundreds of bills, and I have listened to him speak extensively on this bill and hundreds of bills, I would defer to his superior knowledge of political posturing. I would say to the Democrats that I thought I had seen it all, but to listen to them squabbling over enhanced penalties for criminals who violate elderly and children, it is a new revelation to me. You just never know it all, do you? You learn every day.

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

Mr. McCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, I just want to express my thanks to the gentleman for deferring to my political rhythm. I hope he is going to vote with me on this.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM] has 1½ minutes remaining and the right to close debate. The gentleman from Michigan [Mr. CONYERS] has 30 seconds remaining.

Mr. CONYERS. Mr. Chairman, I yield myself the balance of my time.

The Chairman may have heard the gentleman from North Carolina on hundreds of bills. I have heard the chairman of the Committee on the Judiciary on thousands of bills and listened to him extensively and, believe me, he was politicizing this debate one bit when he attempted to characterize Democrats as being not as strong on crime as they are because we dare to raise the role of the U.S. Sentencing Commission, which we created out of the Committee on the Judiciary.

Mr. McCOLLUM. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. CHRYSLER], the author of this bill.

□ 1800

Mr. CHRYSLER. Mr. Chairman, this legislation is certainly not about the commission and whether they did their job or did not do their job. This is really about cowardly criminals that are committing crimes on our streets every day, every night, purposely preying on the most vulnerable people in our society, the elderly, the children, the disabled, waiting for them to come out of their homes to rob them, beat them, and mug them.

This is what we are talking about in this country. America is tired of it, America wants change, America wants these criminals punished, and it is time that we put the word "punishment" back in the criminal justice system.

Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I simply want to say this is a fundamentally sound bill the gentleman from Michigan, [Mr. CHRYSLER], has tailored. We need to increase these punishments. We need to have deterrence against those criminals who would prey on children and the elderly. I would urge all of my colleagues to support this bill.

Mrs. COLLINS of Illinois. Mr. Chairman, one of the hallmarks of civilized society is the measure to which it protects the young, the disabled, and the elderly. Yet, even in our great democracy, we witness daily accounts of torture, abuse, murder, and mistreatment of those vulnerable people in our society.

In an effort to prevent this horrible treatment of vulnerable persons, we put more police on the streets, we developed early childhood programs and family support services, and we implemented Federal sentencing guidelines to

provide a certainty in punishment for similar crimes. However, as we continue to witness crimes against the vulnerable among us, we have seen that the deterrent effect of Federal sentencing guidelines has not been enough to stop those sick people that believe that hurting the less fortunate and weaker among us will make them be more powerful. There has to be a way to stop the madness.

Mr. Chairman, in a perfect world we wouldn't need increased penalties for sentencing guidelines. In a perfect world, we wouldn't need Federal sentencing guidelines at all.

Unfortunately, we don't live in a perfect world. Increased penalties for vicious, violent crimes against the helpless, the weak, the young, the old, the disabled is what we will decide here today.

If one person is saved the pain of being the victim of these violent acts by an increase in the potential penalty for a crime of rape, robbery with violence, and murder, then I will vote in favor of this bill and encourage my colleagues to do likewise.

Mr. GILMAN. I rise in strong support of H.R. 2974, the Crimes Against Children and Elderly Persons Increased Punishment Act and I commend the distinguished gentleman from Michigan [Mr. CHRYSLER] for his efforts in bringing this measure to the floor.

H.R. 2974 amends the 1994 Violent Crime Control and Law Enforcement Act to require the U.S. Sentencing Commission to strengthen its existing sentencing guidelines with regard to crimes against vulnerable persons such as children, the elderly, and those who are mentally or physically disabled. I can think of no more important responsibility for the Members of this body than to protect those who are often unable to protect themselves. It is our duty to do everything in our power to keep those who victimize the most vulnerable members of society off our streets.

Accordingly, Mr. Speaker, I urge my colleagues to strongly support this important measure.

Mr. CLINGER. Mr. Chairman, I rise in strong support of H.R. 2974, the Crimes Against Children and Elderly Persons Increased Punishment Act. At the outset, I would like to commend my colleagues, Chairman HYDE, Chairman MCCOLLUM, and Mr. CHRYSLER for bringing this important legislation to the floor today and the Rules Committee for allowing it to be fully debated.

As you know, H.R. 2974 will increase the length of the sentence for violent crimes against children 14 years of age, or younger, seniors 65 years, or older, and vulnerable persons. It will accomplish this by directing the U.S. Sentencing Commission to provide a sentencing enhancement of not less than five levels above the offense level otherwise provided for a crime of violence against such victims.

The premise underlying this legislation is simple, and one with which I am in complete agreement—that physical assaults against people who cannot defend themselves should be punished more severely than similar crimes committed against people who have the ability to mount some sort of defense.

Victims of crime who are particularly vulnerable due to their age or mental or physical handicap, in my opinion, deserve special protection under the law.

During the debate on the Violent Crime Control and Law Enforcement Act of 1994, I

attempted to offer an amendment to the bill that would have imposed stiffer penalties to those who commit crimes of physical violence against the elderly, similar to protections provided for children under the original bill.

Just as our Nation's children deserve better protection, my concern at the time, as it is now, is also for older Americans. Physical injuries sustained by an elderly person take longer to heal than those inflicted on someone in their thirties or forties. The emotional response is different, too, and many older people find it difficult to recover that sense of well-being that all of us need in order to lead independent, productive lives.

Though my specific amendment was not made in order at the time, the 1994 crime bill that was ultimately enacted into law included language directing the U.S. Sentencing Commission to rewrite existing sentencing guidelines with respect to crimes against vulnerable persons, including children and the elderly. Like many of my colleagues, I viewed this as a positive step.

Unfortunately, however, as my esteemed colleagues have already pointed out, the Commission has failed to take any action in response to this important directive. And through its failure to respond, the Commission is sending what is in my opinion a false message that current guidelines are sufficient to deter such crimes.

With personal crimes against the elderly and child homicide rates on the rise, I do not agree with that message, and I hope that all of my colleagues will join me in supporting H.R. 2974. Because those that prey on the most defenseless in our society should have their sentences increased.

Mr. LATOURETTE. Mr. Chairman, today I rise in strong support of H.R. 2974, the Crimes Against Children and Elderly Persons Increased Punishment Act.

This measure will amend the Violent Crime Control Act of 1994 and toughen the penalties against those who commit crimes against our nation's most vulnerable—our children and senior citizens. It will cover crimes of assault, homicide, rape and—perhaps most important of all to our Nation's seniors—adds the crime of robbery to the Federal definition of violent crime.

Under current Federal sentencing guidelines, sentencing is determined by pre-set guidelines where each criminal act is ranked and given an appropriate sentence. Right now there are 43 different levels. This measure will automatically increase the severity of a crime by five sentencing levels, and in most cases nearly double the minimum and maximum sentences for these thugs.

Also, a judge can take into account a host of other circumstances when determining an appropriate sentence, such as if a gun was used, or if a person was assaulted during the commission of another crime, or if the criminal has previously been convicted of a serious crime. All these circumstances would add months or years to the base sentence.

I was a county prosecutor before coming to Congress. I distinctly remember a case my office tried involving the rape of an elderly woman. This woman was alone in her mobile home, some thug broke in, shoved a pillow over her face to muffle her cries, and viciously raped her. The victim, in her seventies, played "possum" so her deranged attacker would think she was dead. It worked. The rapist fled,

thinking he had not only raped but killed the woman. Fortunately, he later was apprehended and convicted. In fact, this was the first case in my county when DNA evidence was used.

While this crime was heinous and despicable under any circumstance, it truly was—in this instance—a crime against the truly helpless. While we were able to put the rapist away for a long time, it is inherently wrong that he was eligible to receive the same sentence as if he had attacked a strapping 40-year-old teamster who at least has a prayer of defending himself.

We have heard such horror stories of crime in our country, crimes where our children are shot and killed in gang-related violence and drive-by shootings, and raped by the most perverse in our society. We also hear alarming tales of our senior citizens living in fear, unable to protect themselves in their own homes, where their personal safety should be secure.

We need to focus our efforts on punishing those who choose to violate others, who cannot abide by the thin blue line that separates our law-abiding society from those bent on harm and destruction. We also need to send a serious message to anyone who thinks they can commit crimes and be treated with a slap on the wrist: Those days were over.

By doing this, we can send a message to our Nation's children and our elderly—we are trying to make your world as safe as possible, and we will do all within our power to protect you. If you are victimized, at the very least we must assure you that the criminals get the punishment they deserve.

The CHAIRMAN. All time for general debate has expired.

The amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment, and pursuant to the rule, each section is considered read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will designate section 1.

The text of section 1 is as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crimes Against Children and Elderly Persons Increased Punishment Act".

Mr. MCCOLLUM. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

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

There was no objection.

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

SEC. 2. ENHANCED PENALTIES FOR VULNERABLE VICTIMS.

Section 240002 of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"SEC. 20002. ENHANCED PENALTIES FOR VULNERABLE VICTIMS.

"(a) IN GENERAL.—The United States Sentencing Commission shall amend the Federal sentencing guidelines to provide a sentencing enhancement of not less than 5 levels above the offense level otherwise provided for a crime of violence, if the crime of violence is against a child, elderly person, or other vulnerable person.

"(b) DEFINITIONS.—As used in this section—
 "(1) the term 'crime of violence' has the meaning given that term in section 16 of title 18, United States Code;

"(2) the term 'child' means a person who is 14 years of age, or younger;

"(3) the term 'elderly person' means a person who is 65 years of age or older; and

"(4) the term 'vulnerable person' means a person whom the defendant knew or should have known was unusually vulnerable due to age, physical or mental condition, or otherwise particularly susceptible to the criminal conduct."

The CHAIRMAN. Are there amendments to the bill?

AMENDMENT OFFERED BY MR. FROST

Mr. FROST. 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. FROST:
 Amend H.R. 2974 by adding at the end thereof new sections 3 and 4 to read as follows:

SEC. 3. SHORT TITLE.

The following sections may be cited as the "Amber Hagerman Child Protection Act of 1996".

SEC. 4. INCREASED PENALTIES FOR FEDERAL SEX OFFENSES AGAINST CHILDREN

(a) AGGRAVATED SEXUAL ABUSE OF A MINOR.—Section 2241(c) of title 18, United States Code, is amended—

(1) by inserting "whoever in interstate or foreign commerce or" before "in the special";

(2) by inserting "crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or" after "Whoever"; and

(3) by adding at the end of the following: "If the defendant has previously been convicted of another Federal offense under this subsection or under section 2243(a), or of a State offense that would have been an offense under either such provision had the offense occurred in a Federal prison, unless the death penalty is imposed, the defendant shall be sentenced to life in prison."

(b) SEXUAL ABUSE OF A MINOR.—Section 2243(a) of title 18, United States Code, is amended—

(1) by inserting "whoever in interstate or foreign commerce or" before "in the special";

(2) by inserting "crosses a State line with intent to engage in a sexual act with a person who, or" after "Whoever";

(3) by adding at the end of the following: "If the defendant has previously been convicted of another Federal offense under this subsection or under section 2241(c), or of a State offense that would have been an offense under either such provision had the offense occurred in a Federal prison, unless the death penalty is imposed, the defendant shall be sentenced to life in prison."

Mr. FROST. Mr. Chairman, Amber Hagerman was a little 9-year-old girl who loved to ride her bicycle. She was bright and pretty, and was out riding that bicycle on January 13 in Arling-

ton, TX, when someone came along and took her away. That person or persons molested her and killed her. We do not know who took her, but we do know that a little girl, just a child, was brutally murdered and her body left to be found.

Mr. Chairman, this case occurred in my congressional district, but I am sure that events like this have happened, sadly, in every corner of our country, in our cities and in the heartland.

Whoever took Amber did not know and did not care that she was an honor student who made all A's and B's. They did not care that she was a Brownie, who had lots of friends, and who loved her little brother dearly. They did not care that her whole life was ahead of her, and that her parents wanted to watch her grow into the lovely young woman she promised to be.

Mr. Chairman, this amendment that I am offering is named for Amber. This amendment would increase the number of child sex abuse cases that can be brought in Federal court. It imposes a two-strikes-and-you-are-out penalty by requiring that any sex offenders whose cases are in Federal court will be sentenced to life imprisonment without the possibility of parole upon their second conviction.

I had hoped through the introduction of a broader bill to extend these provisions to the states, but, for now, I believe this is a good first step. However limited the jurisdiction of the Federal Government might be in these cases, if just one child is saved from Amber's fate, then this amendment will have served its purpose.

Mr. Chairman, I am outraged to think that convicted sex offenders are out in our streets, where they are free to prey upon our children. I hope that the Committee on the Judiciary will hold hearings later this year on another part of my broader bill which is also crucial to protecting our children from sex offenders. I have proposed a centralized information system to allow law enforcement to track sex offenders across state lines, and that new tool, along with these new stiffer penalties, will make it safe for little girls like Amber to ride their bicycles without being afraid.

Mr. Chairman, this amendment is an important step in protecting our children. I urge my colleagues to support this effort and to vote for the Amber Hagerman Child Protection Act.

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

Mr. Chairman, I think this is a very fine amendment. It is very narrowly crafted and tailored in order to get us to a position where we can now find a way to do what is known as "two strikes and you are out" against somebody who commits these kinds of sexual crimes against a minor. It is something that I think is very important.

The underlying crime that was the first one of the two might potentially be a state crime rather than a Federal

crime, but the crime for which the gentleman from Texas [Mr. FROST] is seeking the additional punishment, which conforms with the kind of thing we are doing in this bill and in the underlying bill, requires that that second crime, the crime we would be seeing in Federal court to be one that is a Federal violation at the time it occurs. I believe that this is extremely well-written, very well-crafted, narrowly crafted to be appropriate to this bill, and it adds to the bill that we have in the sense that it gives us further deterrence against those who would prey upon the children, in this particular case, and I certainly strongly support this amendment and urge its adoption.

Ms. LOFGREN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to commend the gentleman from Texas [Mr. FROST] for offering his amendment. I am a cosponsor of his bill, the Amber Hagerman Act, which the amendment is based upon.

Last year, when the Congress approved the Sexual Crimes against Children Prevention Act, I raised the issue that the sentences instituted in that legislation were insufficient. I think this amendment goes a long way towards remedying that problem.

I am a freshman in this House, but throughout my career here and in local government, I have been very much committed to rehabilitation programs and to assisting people in improving their behavior so that they would no longer pose a threat to society. But I find myself supporting life imprisonment on the second conviction for pedophiles, though, because I think that while rehabilitation works in some categories of offenses, I recognize that there are predators among us who simply must be kept away from potential vulnerable victims. I believe that the law must play a role here. I would argue as well that keeping predators, pedophiles, away from their future victims is also important in preventing a cycle of crime.

When we look at who is a pedophile and their chances of improving themselves, unfortunately we find a situation that is, indeed, grim. In 1981, I commissioned an analysis of California's mentally disordered sex offender program. I was concerned to find that for those pedophiles who had been through the mandatory counseling program, their recidivism rate was actually higher than for those who had been merely imprisoned. I would also note that a 1992 Minnesota study of rapists and child molesters again found that the counseling and rehabilitation programs simply did not work with this offender group.

The Bureau of Justice Statistics has found that those who victimize children through sexual mistreatment are twice as likely to have multiple victims as those who have victimized adults, and further that those who victimize children are likelier to have themselves been victimized as children.

In fact, violent offenders who victimized children sexually were twice as likely as other violent criminals to have been physically or sexually abused as a child. Nearly one quarter of the child victimizers were sexually victimized when they themselves were children. Further, 31 percent of the female prisoners in this country were victims of child sexual abuse and some 75 percent of those who are prostitutes in this country were also sexually abused as children.

We consequently have a situation where we have a crime that tends to be repeated over and over again. The rehabilitation efforts that we have in place seem to do nothing whatsoever. We also have a crime that repeats in its cycle of violence so that the innocent victims too often go on to victimize other innocent people as adults.

I am someone who actually opposed California's "three strikes, you are out" law because the net effect of that measure is often to send people who have stolen a six-pack to prison for life. That is a misuse of resources. However, it is a good use of our resources to put pedophiles in prison for life to save their future victims, until we find some other method to deal with this group of offenders, which we have yet to do.

Mr. Chairman, I am glad that this bill and this amendment are before us today. One of the things that I was committed to doing when I came to Congress was to make sure, if nothing else, that we put children first, that we ensure their safety is our highest priority, that we interrupt the cycle of childhood violence and sexual abuse.

Mr. Chairman, I commend the gentleman from Texas [Mr. FROST] and hope my colleagues will join me in approving this amendment.

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

Mr. Chairman, unfortunately, Texas is not the only community in the country that has been affected by what really can only be described as the worst possible actions of a human being to another human being. In south Florida, within the last 12 months, a case that unfortunately I stood on this House floor before we knew what happened to a young boy named Jimmy Rice, where I had a picture right here of him when he was still missing, where his body had not yet been found, and the gruesome tale of what happened to him in the last few hours of his life had not yet been heard. But there was an end to the Jimmy Rice story, an end that occurs too often in the United States.

Mr. Chairman those victims, and the victims clearly are not just the victim, but the parents, the family, the community, really have a right to protect themselves. I have heard the debate in terms of our involvement in the Sentencing Guidelines Commission and whether or not we should direct them to do certain things. I think this is a

case where we need to direct them to do certain things, where we as a society need to make a statement, a very strong statement, in fact the strongest possible statement, that this is behavior outside the bounds, and in fact so far outside the bounds, of human decency, of what we expect as a society, that we are willing to do what we need to do to protect ourselves.

That is exactly what the Frost amendment does. What it does is expands the jurisdiction in terms of including a broader Federal jurisdiction of sexual exploitation of children, so in cases where people are coming from out of state to commit such an act it can be brought into the Federal court system.

That clearly is a major factor in terms of what would occur, bringing Federal resources. But as importantly, what it does is we are no longer even talking about three strikes and you are out. We are really talking about two strikes and you are out in this amendment. And really it should be, to the extent in this type of case, one strike and you are out, and we need to highlight this type of exploitation.

The message can be no clearer, the punishment can be no more severe. We know from our own experience, we know from analytical experience, that as a society we protect ourselves, we send a message, we do punishment. That is what the crimes are about, to make it clear that there is a punishment side, and hopefully not just by this legislation but by other actions that we can take, that there will be no victims of crimes like this in America, that we can all live in America some day where there will not be victims of crimes like this, which I think is a hope in the work that this Congress can do in many areas. It is a much broader question than just the punishment side. But I think we need to be as strong as we possibly can on the punishment side, as we will be today.

Mr. Chairman, I compliment the gentleman from Texas [Mr. FROST] and this Congress, whom I assume very shortly will adopt this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. FROST].

The amendment was agreed to.

□ 1815

AMENDMENT OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. SLAUGHTER.

Page 4, line 2, after "conduct" insert " or is a victim of an offense under section 2241(e) of title 18, United States Code".

Add at the end the following new section:
SEC. 5. FEDERAL JURISDICTION OVER RAPE AND SEXUAL ASSAULT CASES.

Section 2241 of title 18, United States Code, is amended by adding at the end the following:

"(e) PUNISHMENT FOR SEXUAL PREDATORS.—
(1) Whoever, in a circumstance described in paragraph (2) of this subsection—

"(A) violates this section; or

"(B) engages in conduct that would violate this section, if the conduct had occurred in the special maritime and territorial jurisdiction of the United States, and—

"(i) that conduct is in interstate or foreign commerce;

"(ii) the person engaging in that conduct crossed a State line with intent to engage in the conduct; or

"(iii) the person engaging in that conduct thereafter engages in conduct that is a violation of section 1073(1) with respect to an offense that consists of the conduct so engaged in; shall be imprisoned for life.

"(2) The circumstance referred to in paragraph (1) of this subsection is that the defendant has previously been convicted of another State or Federal offense for conduct which—

"(A) is an offense under this section or section 2242 of this title; or

"(B) would have been an offense under either of such sections if the offense had occurred in the special maritime or territorial jurisdiction of the United States."

Mr. MCCOLLUM. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] reserves a point of order.

Ms. SLAUGHTER. Mr. Chairman, today we are considering legislation to increase penalties for violent crimes against children, the elderly, and other vulnerable individuals in our society.

The House has adopted Representative FROST's amendment which establishes a Federal crime for repeat sexual offenses against children. I now ask my colleagues to go further to protect the other vulnerable members of communities who are terrorized by repeat sexual predators.

My amendment would allow Federal prosecution for offenders accused of a second rape or other serious sexual assault. If convicted under this Federal prosecution, the sexual predator would be imprisoned for life without parole.

This amendment is designed to change our approach to repeat sex offenders. The American people are outraged that our criminal justice system releases these obsessive criminals after just a few years. Some national statistics indicate that rapists are 10 times more likely than other convicts to repeat their crimes. Yet the average convicted rapist serves only about 5 years in jail.

Even the repeat sexual offenders themselves recognize the problem. The convicted killer of Polly Klaas has been quoted as saying that he should not have been on the street.

Since we cannot change the behavior of these sexual predators, we need to keep them behind bars. The amendment does just that. Repeat rapists would receive life sentences in Federal prison.

It seems you open the newspaper every week and read about another monster committing a horrific crime. In the last several years, residents of California, Florida, Massachusetts, Indiana, Texas, Virginia, Washington, Vermont, Oregon, Idaho, New York, and Maryland have experienced the terror of serial rapists and molesters.

Too often these fiends have long histories of preying on women and children, but they have been released to attack again and again.

For example, in California Leo Anthony Goodloe began his grisly career by raping and severely beating a 17-year-old woman in 1956. Over the next 39 years, he served 16 years in prison for 10 felonies, but was released to rape again and again. Even with such a record, he served less than 2 years for a rape and sodomy conviction in 1990. Four months after his release, he raped and beat yet another victim. While he has finally been sentenced to 43 years in prison without the possibility of parole, his reign of terror continued far too long.

Similarly, in 1994, police in New York City arrested Robert Daniels for four rapes. Daniels had been paroled 10 months earlier after serving less than 10 years for his second rape conviction. Besides his first rape conviction in 1969, he had also been convicted of sex offenses in 1974 and 1976.

This sickening litany is all too common.

In my hometown of Rochester, we know all too well the horror of serial rapists. Arthur Shawcross had served less than 15 years for the sexually motivated murders of two children. A model prisoner, Shawcross was released and his parole officer lost track of him. Before he was caught again, Shawcross had raped and killed 10 women.

In the last Congress we instituted a Federal data base of sexual offenders, first proposed in the protection from sexual predators bill I introduced in 1994. That was an important first step in giving police departments the resources needed to catch repeat sexual predators, like Shawcross.

Today we have taken another step by providing a means to protect our communities from the monsters that sexually attack children.

But as legislators, our job is not yet complete. When I speak with my constituents they are especially worried about the threat posed by violent, repeat offenders—and particularly by the sexual predators who seem to be released from prison over and over, only to commit the same sickening crimes once more.

These monsters prey on the most private aspect of our lives. They often invade the sanctity of our homes as well as our streets, and unfortunately, no community is safe from this threat.

It is time to stop fooling ourselves and to lock up these repeat offenders for good. I urge my colleagues to support this amendment.

It will give prosecutors across the Nation the ability to ensure that our communities are safeguarded from these revolving door rapists.

It will tell the victims of these sexual fiends that we do not find this behavior a minor aberration; that we understand that the lives of the victims of rape are forever changed, and that we, as a society will not stand by and let the same

person wreak this havoc and destroy life after life after life.

In the name of past and future victims of these unspeakable rapists, I urge my colleagues to vote for this amendment.

Mr. MCCOLLUM. Mr. Chairman, while I recognize what the gentlewoman is attempting to do with this amendment and realize that the close call might have been there on the point of order, I do not think that this is appropriate to this bill, even though I have concluded that it would be germane.

The reason why I do not think it is appropriate to this bill is that the underlying bill that we are dealing with today involves violent crimes against children and the elderly. This particular effort that we have got here today that the gentlewoman from New York [Ms. SLAUGHTER] is bringing forward would mean that we would have a new Federal crime involving virtually any situation where there have been two rapes, having any kind of interstate nexus at all and we would have two strikes and you are out, regardless of the age of the victim.

Mr. Chairman, the very fact that we have got a person who is vulnerable, and I realize that the word "vulnerable" is in our language, is stretched to the limit I think by this amendment. And I also question some constitutional questions with regard to whether we are going too far, whether there is truly a nexus here that can be attached to the full Slaughter amendment that would be appropriate at the Federal level.

Mr. Chairman, let me describe this briefly, because I understand the idea and I want to discourage these type of crimes. I certainly think two strikes and you are out is appropriate against anybody who commits a rape under the conditions that the gentlewoman described, but I do not think it is appropriate for Federal law under this bill, or Federal law for that matter at all under some of the conditions that she is describing.

Under the amendment of the gentlewoman from New York, the first offense must be a violation of section 2241, or it must be the equivalent of that. It could be a State law violation, which in essence means an aggravated sexual abuse.

The Frost amendment we had a while ago was the sexual abuse of children. Or under the Slaughter amendment it could be simply sexual abuse which is not limited to children, or a State offense that would have been an offense under either of such sections if the offense had occurred in a special maritime or territorial jurisdiction of the United States.

The second offense for which you could get the two strikes and you are out could be either a violation of section 2241, which is an aggravated sexual abuse Federal crime, and not limited to children, or a State offense that would be a violation of section 2241 if

the conduct had occurred in a special maritime and territorial jurisdiction of the United States and either, first, that the conduct was in interstate or foreign commerce or, second the offender crossed the State line intending to engage in the conduct, or third after committing this State offense, travels in interstate commerce with the intent to avoid prosecution or confinement after conviction for a capital crime or felony under a State law.

Mr. Chairman, I submit that this is stretching considerably the constitutional bounds of where we should be having or even thinking about Federal jurisdiction. Federal courts already have an enormous workload. And I know occasionally I have come to the floor and argued in the past for expanding that workload in certain instances. But, essentially, the second time rapist in the United States, no matter who he is and where he has committed that rape, is most likely going to be covered by this, and Federal law would be involved in prosecuting second time rape cases, even if there has never been one piece of Federal jurisdiction before in the underlying rape crime.

Mr. Chairman, I just frankly think that there is, first, a considerable constitutional question, but as a matter of policy I cannot support that because it is too broad. And I reluctantly oppose the Slaughter amendment for that reason, even though I understand that the gentlewoman means well by it.

And I, too, Mr. Chairman, want to discourage this sort of thing and I would love to see the States adopt two strikes and you're out, for rape crimes. And in certain appropriate Federal crimes where you limit it to the Federal jurisdiction as the gentleman from Texas [Mr. FROST] has done, I think that would be a good idea too, although I frankly do not think it was a good idea to include it in this bill that was confined originally primarily to children and the elderly.

Nonetheless, my objection is not specific to the age or the youth question, but with rather to the issue of whether we are just going way too far in encompassing far too many crimes for Federal jurisdiction which have traditionally been State jurisdictions, and I see no public policy reason nor do I think there is a constitutional basis for doing this.

Again, Mr. Chairman, I reluctantly oppose the amendment.

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

Mr. Chairman, we have a difficulty here. We have passed the Chrysler amendment that enhanced the penalties for crimes against children and adults. We passed the Frost provision that increased penalties for sex offenses against children, and now we come to the amendment of the gentlewoman from New York [Ms. SLAUGHTER] where repeat violent sex crimes against women are now being rejected on the basis that there is a constitutional problem.

Give me a break. What constitutional problem?

Mr. Chairman, I yield to the gentleman from Michigan [Mr. CHRYSLER], my wonderful colleague, to ask him to edify us on this provision. Can the gentleman join me in supporting the Slaughter amendment?

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

Mr. CONYERS. It is a perfect privilege and pleasure to yield to the gentleman from Michigan.

Mr. CHRYSLER. Mr. Chairman, I believe that this amendment is very well intended. I believe that we need to lock up people that have a second offense of a rape. But I also agree with the gentleman from Florida [Mr. MCCOLLUM] that this bill that we have introduced really is aimed at crimes against children, the elderly, and the disabled. This amendment probably better belongs in another crime bill that may come to the floor.

Mr. CONYERS. Mr. Chairman, reclaiming my time, that is a possibility. I thank the gentleman for his response. Does he additionally think it might be referred to the U.S. Sentencing Commission?

Mr. CHRYSLER. Mr. Chairman, I do not know.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for his candor.

Mr. Chairman, if my colleagues loved Chrysler, if they liked Frost, what in the devil is wrong with Slaughter? I mean, are women subject to violent sex crimes? To second offenses? Are those criminals not to be given the enhanced penalties that have gone through this House like Ex-Lax?

Now, Mr. Chairman, we get to women and we say: Well, wait a minute. Slow down. Let us study it. My dear colleague suggests it should go into another bill. The chairman of my subcommittee tells me that there is a constitutional problem seen in this measure.

Look, we are either for toughening penalties against vicious repeat criminals against children and the elderly or we are not. Let us not exclude women.

Ms. SLAUGHTER. Mr. Chairman, will the gentleman yield?

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

Ms. SLAUGHTER. Mr. Chairman, I absolutely agree with the gentleman from Michigan [Mr. CONYERS]. If there is no constitutional prohibition to what we have done already, surely protecting women in the United States should not be prohibited.

The bill speaks to the vulnerable. Mr. Chairman, I do not know of anyone more vulnerable than a woman alone in her apartment when a rapist wakes her up, having broken in through the window, or the woman who gets into her car or a woman who is leaving work who gets in an elevator who is accosted by a rapist who changes her life forever.

□ 1830

Certainly, if we are going to protect the people of the United States against

this awful crime of rape and we say that the people who commit this crime are not people that we can rehabilitate and indeed since their recidivism rate is so high, why would we leave out of this bill the women? Why should they not be protected? Without question, they are the major sufferers of this awful crime.

In cases of serial rape, the rapist often goes across State lines to commit his awful crime. Again, without question, this is a Federal jurisdictional problem.

There are four sources for Federal jurisdiction that I have to this amendment. I would like to read them. The first is one the gentleman from Florida [Mr. MCCOLLUM] mentioned about special maritime and territorial jurisdiction; the second, if it occurred in interstate or foreign commerce; third, where the criminal crossed the State line with intent to engage in the conduct, which is frankly often the case; or the criminal fled across State lines after engaging in the conduct, which again is the case.

Why in the world would we differentiate between our citizens if we are trying to protect them? Why not include women? This is certainly a case again where the person in the prison is a model prisoner. There are no women to rape. There are no children to molest. But we have learned over and over again, through tragedy after tragedy, that once these people are released back on the street they often, within days, have repeated their awful crime.

Why do we not try to make everybody in the country safe from this hideous experience? Why in the world, how can we exclude women? Frankly, on the face of it, it makes no sense to me.

I urge my colleagues not to do this thing to the women of the United States.

Mr. CONYERS. Mr. Chairman, I beg my colleagues to support the Slaughter amendment and not discriminate against women.

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

Mr. Chairman, I rise in support of the Slaughter amendment. It is based on the Protection From Sexual Predators Act, which I have cosponsored.

I would like to note, in response to the issues raised about germaneness or correctness, not as a technical matter since the amendment is germane, that this proposal is also about enhancing sentences for those offenders whose behavior is not amenable to improvement by any means that we have yet been able to devise. As with pedophiles, we have yet to find a method or program that in the case of most rapists changes their behavior so that they will cease being a threat to other innocent victims in the future. I think for this reason the penalty proposed by the author of the amendment is as appropriate as the punishment adopted previously by the Frost amendment.

I would note further that this bill is about enhancing penalties in selected

cases for sound reasons. This amendment is as sound as the Frost amendment; it is as sound as the Chrysler bill. It deserves support. For a Congress that has allowed logging in the Tongass National Forest as part of an appropriations bill to now say that this amendment is not connected enough with a bill to enhance sentences is, I think, rather curious—very curious.

Mr. Chairman, I know that not every Member has had a chance to read through the jurisdictional basis that the gentlewoman from New York [Ms. SLAUGHTER] has referred to, but I would urge Members to do so. I know that there are genuine concerns that can be expressed about the jurisdictional issues and the scope and breadth of Federal law, but I think that Members who do have reservations, if they will read through the amendment, will be reassured that in fact this measure is well in keeping with the Chrysler bill and the Frost amendment.

I would urge that we step back, think again, and approve the Slaughter amendment.

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

Mr. Chairman, I think my colleagues now should begin to understand exactly why we gave jurisdiction for these decisions to the U.S. Sentencing Commission. Once you get on this slippery slope, once you start on the House floor, we are going to have maybe 435 Members of Congress coming in saying, hey, we ought to enhance penalties for this offense, that offense, against this vulnerable person, against this vulnerable group, and there is no way to get off of the merry-go-round.

Exactly the reason that we gave the authority to the Sentencing Commission away from the politics and cameras and give-and-take of having to run in political contests, to go in and spend the time that it takes to make reasonable judgments about sentencing policy, that is exactly the reason we gave the Sentencing Commission this job. And here, my colleagues, they do not know how to deal with this because this amendment, the truth of the matter, got offered by a Democrat. That is the only difference it is.

It is politics now. As long as it is offered by the other side, it is good public policy. But let a Democrat come up with the proposal, all of a sudden it is politics. We do not know where to draw the line, or it is unconstitutional, or any irrational basis for making the decision that we should have, should not even be discussing in the first place.

We ought to take this whole bill, with the Frost amendment, with the Slaughter amendment, with the Chrysler business that we started with and send it over to the Sentencing Commission to do their job with it. They can hold extensive hearings. They can solicit public comment. They can analyze how this compares with other sentencing decisions. They can rationalize the process. They can tell us, hey, somebody ought not get a double sentence

just because they assaulted somebody who is 65 years and in good health than they would get for someone who is 64 years, 364 days, and in terrible health, even lying in a bed in a hospital.

It makes no sense to do this. That is exactly the reason, my colleagues, that we gave this responsibility to the Sentencing Commission. That is exactly the reason I am going to give Members an opportunity to vote on giving it back to them, so that they can make some rational decisions, because the decisions we are making right now do not make one iota of sense.

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

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

Mr. CONYERS. Mr. Chairman, I commend the gentleman's logic, because when we send it to the Sentencing Commission, they must send it back to us and then we can approve or then make any modifications we choose.

Mr. WATT of North Carolina. Reclaiming my time, Mr. Chairman, the gentleman is absolutely right. That is the way the process is supposed to work, away from the cameras, away from the politics of it. Rational decisionmaking. We still get a shot at it. We will still get our shot.

It might be next year, when we are not running for office, and that is the way it should be. That is exactly the way it should be. We ought not be making these very important, very intricate, very difficult decisions haphazardly. Some years ago, on a bipartisan basis, Republicans and Democrats came to the conclusion that we ought to give the responsibility to the Sentencing Commission. I move that we send it back there.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would first remind those spectators in the Gallery that they are guests of the House of Representatives, and demonstrations of appreciation or disfavor of any speaker are not permitted by the rules.

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

Mr. Chairman, I rise in strong support of the amendment by the gentleman from New York.

As many in this Chamber know, I do not always see eye to eye with the gentleman from North Carolina on crime issues. Sometimes I am a little more closely aligned with the gentleman from Florida. But on this one, this is a no-brainer.

First, the gentleman from North Carolina is exactly right. We cannot have it both ways. If we are for drawing these kinds of bills and federalizing more crimes and putting in tougher penalties, as I am and have done in the past, why draw the line at women? And if we are not for it, then do not do it for the elderly and children but not for women.

Either way, we can be consistent on either side of the line. Most of us are,

I think, being consistent on this side on making things tougher and better. But how can we say that it is a horrible thing to and the sentencing should take into account someone is elderly or someone is young but not women?

Mr. Chairman, a few hours ago we had good debate. I do not even think a vote was called for on Megan's law because we talked about the fact that, particularly in crimes where sexual predators are involved, they can spend 5, 10, 15 years in jail. They can go through the most up-to-date rehabilitation, and, unfortunately and terribly, more times than not, they commit the same crime when they get out even though they are 15 or 20 years older. Who are the victims of those crimes? Is it just children? No. Much of the time it is women.

What is good to be done, because children have to be protected from these types of predators, is just as good because women and to be protected from these types of predators. When I heard that the gentlewoman from New York was doing her amendment, I thought to myself, this is a good idea. It will be accepted by the majority, and that will be it.

Mr. Chairman, I am utterly amazed that this amendment is being opposed on the other side. I am surprised. It does not fit with their philosophy. It does not fit with, you do not have a view, neither do I, frankly, that the gentleman from North Carolina does, that the Sentencing Commission ought to be deferred to through thick and thin.

I have had too much of judges and others who are not elected officials making the criminal law. I feel a little differently than the gentleman from North Carolina about that. I feel the balance may be too far against the victim. But all of a sudden, and this is not the first time this has happened, Members from the other side who are generally law and order fined a reason to pull back on the terrorism bill, fear of wire taps? That was something new from the other side. And now fear of making laws too tough because women are involved?

Mr. Chairman, I think I have to agree with my colleague from North Carolina. The only reason that this amendment is being opposed by my good friend from Florida and my good friends on the other side of the aisle who I work with closely and who I have enormous respect for is very simply because it was proposed by someone on this side of the aisle. That is not how we should legislate.

Let us make this bill a better bill. Let us take the idea that was a good idea when it applied to children and elderly and extend it to women. There is no logical argument against doing that, none at all. That is why I must reluctantly come to the conclusion that the only reason it is being opposed is politics.

□ 1845

Mr. Chairman, I want to salute the gentlewoman from New York [Ms. SLAUGHTER] for putting this amendment in. It certainly is consistent with the bill, it is consistent with my philosophy in terms of the criminal law, and I hope we will get bipartisan support when a record vote is called for to pass this amendment and improve and make a good bill better.

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

Mr. Chairman, I yield to the gentleman from Florida [Mr. MCCOLLUM], the chairman of the subcommittee.

Mr. MCCOLLUM. Mr. Chairman, I simply would like to respond very briefly on the gentleman from Michigan's time to some of the comments that have been made by this amendment and the proposal on it.

My concern and my opposition that I have expressed earlier do not have anything to do with the fact that I believe we are doing anything incorrectly by expanding some of the Federal jurisdiction in certain areas. But it does have to do with the facts that the underlying bill that we brought out of committee did not do that.

The underlying bill we brought out in committee was to enhance penalties, and if the gentlewoman from New York had made her amendment simply to expand the term vulnerable to include women, victims of rape, and Federal law, I would not have particularly a problem. But we are creating a new crime in her amendment. The new crime is going to be a new Federal crime that does not exist today, and that is not what the underlying legislation does.

In other words, this amendment would create a Federal life imprisonment sentence for a two-time rapist who drove 3 miles on Interstate 495, crossing from Maryland into Virginia, in order to commit a second offense under the statute.

I think that is wrong in the sense that I believe that it is probably unconstitutional, but I can assure the gentleman from New York [Mr. SCHUMER] that I am not going to vote against this in a recorded vote; I doubt if anybody on this side of the aisle in this room is, because it will be misinterpreted as to what we intended and what we are concerned about.

I believe that it is true that we should be punishing with life imprisonment the person who does that. I do not doubt it for a minute. But I do not believe that we should have been doing it in this bill. The bill, when it came out here, was to enhance penalties, not designed to create new crimes. The bill did not do that. It simple enhanced penalties for those who are vulnerable, children and elderly particularly, but if we included women, we did it in the broad sense of that word. I do not have that problem with that.

Mr. Chairman, I do not have the time to yield because the gentleman yielded

to me for the moment and I would like to conclude.

We have not, in my judgment, done real justice tonight by expanding it, but we will expand it. I do not doubt for a minute it will pass. I am not going to object to it, and I again ultimately believe that whoever the criminal, he will get his just deserts.

But, again, the process has not been well served through or committee structure even by bringing a bill out that we expand new crimes in out here today when all we were trying to do is do penalties, and I do not think it has been well served to add this enormously to the Federal jurisdiction without having it made it into committee.

I also realize that when the other side was in the majority, many of the same arguments had been presented to the chairman at that point in time, and it can be presented when the shoe is on the other foot quite frequently. So that is why I expect this to pass tonight, and I expect it to become law, but I also suspect that there may be some serious constitutional difficulties.

Mr. CHRYSLER. Mr. Chairman, I think I need to reiterate what the gentleman from Florida [Mr. MCCOLLUM] said. We are certainly not against women. We certainly are for increasing penalties against repeat offenders that are committing rape in this country. I just believe that this is really probably not the right bill for it to be on. There will be another bill, I am sure, and I think that is where it should be offered.

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

I will be happy in a minute to yield to the gentleman. Let me just say a couple of words, and I will be happy to yield.

As my colleagues know, both my daughters, when we talked about Megan's law a minute ago, and with the gentleman from New York [Mr. SCHUMER], I agree, as my colleagues know, that they should be locked up for a long time and there is a high recidivism, and the reason I agree with the gentlewoman from New York [Ms. SLAUGHTER] is that just because they are at a young age right now when they are attacked, they are going to be young ladies before long, and I would think that the same kind of penalty would follow on even though they grow older in age.

I do not know the Constitution. I am not a lawyer. But I just think that by logic that it would be a good idea.

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

Mr. CUNNINGHAM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, I just want to take a moment to express my utter dismay that a Member of this body would come on this floor and say, "I believe this bill, this amendment, is unconstitutional,

yet if you put me to a vote, I'm going to vote for it."

That is just absolutely, that is exactly the reason we ought not be dealing with this in this process, because then it becomes only politics.

Mr. CUNNINGHAM. Reclaiming my time, Mr. Chairman, I yield to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I would like to say, in response the gentleman, I am sure he is talking about the gentleman from Florida, but I did not say that I believe this was unconstitutional. I believe there is a serious constitutional question. I think there is a good chance that it will be ruled unconstitutional, but I do not know whether it is or not.

We know the Lopez case was unconstitutional. That was the case we passed and I supported a number of years ago which would make it a Federal crime for a certain gun transaction within so close a proximity. I happen to think it was a good law. I would like to see it in law. But it unfortunately was ruled unconstitutional.

I have just done my duty by pointing out that there is a serious question about it in the way Ms. SLAUGHTER's has been crafted.

Mr. CUNNINGHAM. Mr. Chairman, as long as we are not in attack mode, if we are going to stick to the issue, I yield to the gentleman from Michigan [Mr. CONYERS].

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

I just want to go back to my colleague from Michigan, Mr. CHRYSLER, and just point out to him that some of these ships are turning around gently in the evening, and we do not want to leave him out there dragging along and waiting for this measure to come up in a separate bill. I would urge that he look at the merits of this measure and join with us that are in a bipartisan spirit, with nothing personal, are going to follow the consistency and the logic of his provision which passed earlier, the Frost provision which passed right after that, and now we are talking about applying that same enhancement of penalties to vicious women crimes.

Mr. CUNNINGHAM. Mr. Chairman, I yield to the gentleman from New York [Mr. SCHUMER], and I am going to support it in either fashion of the bill.

Mr. SCHUMER. Mr. Chairman, I just wanted to reiterate one point made by the gentleman from Michigan and then make another. We did add a new Federal law, I would say to my friend from Florida, when we accepted the Frost amendment. We crossed that bridge. We did not stay with the concept of just enhancing the penalty. We made a new Federal crime, as I understand it, with Frost.

Mr. Chairman, the second point I would make to my friend from Florida, with the gentleman from California's gracious yielding to me, is this:

The gentleman made an argument, well, if it was just for rape or just for

some kind of, I think he mentioned, sexual crime, he would be for it. Well, we do not limit the base bill to children for that. We do not say if it was just a crime against children, a sexual crime. We have any child, we would ask the Sentencing Commission to enhance the penalty, and we are saying the same thing here for women who tend all too often to be the victims of crimes committed by men.

Mr. CUNNINGHAM. Mr. Chairman, reclaiming my time, I yield to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I just would like to respond by making a note that the amendment offered by the gentleman from Texas [Mr. FROST] while it created a new Federal crime, it created a crime that is there because of Federal law; that is, the crime that Mr. FROST is talking about, the "two times and you are out," would have to occur on Federal property and maritime jurisdiction or wherever.

This particular effort the gentlewoman from New York [Ms. SLAUGHTER] has created here could be two State crimes, the only nexus being interstate transportation from somebody crossing the State line to commit it. And that is a big difference.

Mr. Chairman, that is my point. But nonetheless I am going to support this tonight. I have already indicated that I am not going to vote against it. But I do have great reservations about it.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield for just one more point?

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

Mr. SCHUMER. Mr. Chairman, I thank the gentleman from the dukedom of California. I would say to the gentleman, if one reads the language of Frost, "If the defendant", this is section 4(B), numeral three, "If the defendant has previously been convicted of another Federal offense under this subsection."

The CHAIRMAN. The time of the gentleman from California [Mr. CUNNINGHAM] has expired.

(On request of Mr. SCHUMER, and by unanimous consent, Mr. CUNNINGHAM was allowed to proceed for 2 additional minutes.)

Mr. CUNNINGHAM. Mr. Chairman, I yield to the gentleman from New York.

Mr. SCHUMER. "Or under another section, 2241(c), or of a State offense that would have been an offense under either such provision had occurred in a Federal prison unless the death penalty is imposed." So they are involving State offenses, too.

The other point I would make to the gentleman again: The gentleman said he would accept this provision if it were limited to sexual crimes, and I just wanted to get his provision, why that is different for children.

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

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

Mr. MCCOLLUM. Mr. Chairman, I think perhaps both of these points can

be addressed in the same answer. What I was trying to say earlier in the evening was that had this amendment been crafted so that we were talking about sexual crime, a rape crime against a woman, or whatever, that was a Federal crime for the second crime, just as Mr. FROST's is a Federal crime that we are dealing with. Although an underlying predicate crime was a State crime, the second crime had to be a Federal crime, and that is not the case with Ms. SLAUGHTER's, then I would be much happier, let us put it that way, with what we are doing tonight because I feel that the nexus would be there; there would not be any question of even a doubt about the constitutionality, and so forth.

That is not what we are doing. The second crime under Ms. SLAUGHTER does not have to be a Federal crime to get the Federal jurisdiction, and we are thus proceeding otherwise.

But I did not mean to mislead the gentleman. All of the crimes that she has described, as long as they are Federal, would not have bothered me if that had been the case.

Mr. CUNNINGHAM. Mr. Chairman, all I know is that, as a nonlawyer, that too many times our own laws prevent us from doing the right thing. I think the amendment offered by the gentleman from New York [Ms. SLAUGHTER] is a good amendment, and I ask to support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Ms. SLAUGHTER].

The question was taken; and the Chairman announced that the ayes 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 411, noes 4, not voting 18, as follows:

[Roll No. 146]

AYES—411

Abercrombie	Blute	Chenoweth
Ackerman	Boehrlert	Christensen
Allard	Boehner	Chrysler
Andrews	Bonilla	Clay
Archer	Bonior	Clayton
Armey	Bono	Clement
Bachus	Borski	Clinger
Baesler	Boucher	Clyburn
Baker (CA)	Browder	Coble
Baker (LA)	Brown (CA)	Coburn
Baldacci	Brown (FL)	Coleman
Ballenger	Brown (OH)	Collins (GA)
Barcia	Brownback	Collins (MI)
Barr	Bryant (TN)	Combest
Barrett (NE)	Bryant (TX)	Condit
Barrett (WI)	Bunn	Conyers
Bartlett	Bunning	Cooley
Barton	Burr	Costello
Bass	Burton	Cox
Bateman	Buyer	Coyne
Becerra	Callahan	Cramer
Beilenson	Calvert	Crane
Bentsen	Camp	Crapo
Bereuter	Campbell	Creameans
Berman	Canady	Cubin
Bevill	Cardin	Cummings
Bilbray	Castle	Cunningham
Bilirakis	Chabot	Danner
Bishop	Chambliss	Davis
Bliley	Chapman	de la Garza

Deal	Istook	Obey	Velazquez	Waxman	Wolf
DeFazio	Jackson (IL)	Olver	Vento	Weldon (FL)	Woolsey
DeLauro	Jackson-Lee	Ortiz	Volkmer	Weldon (PA)	Wynn
DeLay	(TX)	Orton	Vucanovich	Weller	Yates
Dellums	Jacobs	Owens	Walker	White	Young (AK)
Deutsch	Jefferson	Oxley	Walsh	Whitfield	Young (FL)
Diaz-Balart	Johnson (CT)	Packard	Wamp	Wicker	Zeliff
Dickey	Johnson (SD)	Pallone	Ward	Wilson	Zimmer
Dicks	Johnson, E. B.	Parker	Watts (OK)	Wise	
Dingell	Johnson, Sam	Pastor			
Dixon	Johnston	Paxon			
Doggett	Jones	Payne (NJ)			
Dooley	Kanjorski	Payne (VA)			
Doolittle	Kaptur	Pelosi			
Dornan	Kasich	Peterson (FL)			
Doyle	Kelly	Peterson (MN)			
Dreier	Kennedy (MA)	Petri			
Duncan	Kennedy (RI)	Pickett			
Durbin	Kennelly	Pombo			
Edwards	Kildee	Pomeroy			
Ehlers	Kim	Porter			
Ehrlich	King	Portman			
Emerson	Kingston	Poshard			
Engel	Kleczka	Pryce			
English	Klink	Quillen			
Ensign	Klug	Quinn			
Eshoo	Knollenberg	Radanovich			
Evans	Kolbe	Rahall			
Everett	LaFalce	Ramstad			
Ewing	LaHood	Rangel			
Farr	Lantos	Reed			
Fattah	Largent	Regula			
Fawell	Latham	Richardson			
Fazio	LaTourrette	Riggs			
Fields (LA)	Laughlin	Rivers			
Fields (TX)	Lazio	Roberts			
Filner	Leach	Roemer			
Flake	Levin	Rogers			
Flanagan	Lewis (CA)	Rohrabacher			
Foglietta	Lewis (GA)	Ros-Lehtinen			
Foley	Lewis (KY)	Rose			
Forbes	Lightfoot	Roukema			
Fowler	Lincoln	Roybal-Allard			
Fox	Linder	Royce			
Frank (MA)	Lipinski	Rush			
Franks (CT)	Livingston	Sabo			
Franks (NJ)	LoBiondo	Salmon			
Frelinghuysen	Lofgren	Sanders			
Frisa	Longley	Sanford			
Frost	Lowe	Sawyer			
Funderburk	Lucas	Saxton			
Furse	Luther	Scarborough			
Gallegly	Maloney	Schaefer			
Ganske	Manton	Schiff			
Gejdenson	Manzullo	Schroeder			
Gekas	Markey	Schumer			
Gephardt	Martinez	Seastrand			
Geren	Martini	Sensenbrenner			
Gilchrest	Mascara	Serrano			
Gillmor	Matsui	Shadegg			
Gilman	McCarthy	Shaw			
Gonzalez	McCollum	Shays			
Goodlatte	McCrery	Shuster			
Goodling	McDermott	Sisisky			
Gordon	McHale	Skaggs			
Goss	McHugh	Skeen			
Graham	McInnis	Skelton			
Green (TX)	McIntosh	Slaughter			
Greene (UT)	McKeon	Smith (MI)			
Greenwood	McKinney	Smith (NJ)			
Gutierrez	Gutiérrez	Smith (TX)			
Gutknecht	Meehan	Smith (WA)			
Hall (TX)	Meek	Spence			
Hamilton	Menendez	Spratt			
Hancock	Metcalf	Stark			
Hansen	Meyers	Stearns			
Hastert	Mica	Stenholm			
Hastings (FL)	Millender-	Stockman			
Hastings (WA)	McDonald	Stokes			
Hayworth	Miller (CA)	Studds			
Hefley	Miller (FL)	Stump			
Hefner	Minge	Stupak			
Heineman	Mink	Talent			
Hergert	Moakley	Tanner			
Hilleary	Montgomery	Tate			
Hilliard	Moorhead	Tauzin			
Hinche	Moran	Taylor (MS)			
Hobson	Morella	Tejeda			
Hokestra	Murtha	Thomas			
Hoekstra	Myers	Thompson			
Holds	Myrick	Thornberry			
Horn	Nadler	Thornton			
Hostettler	Neal	Thurman			
Houghton	Nethercutt	Torkildsen			
Hoyer	Neumann	Torres			
Hunter	Ney	Torricelli			
Hutchinson	Norwood	Towns			
Hyde	Nussle	Traficant			
Inglis	Oberstar	Upton			

Waxman	Wolf
Weldon (FL)	Woolsey
Weldon (PA)	Wynn
Weller	Yates
White	Young (AK)
Whitfield	Young (FL)
Wicker	Zeliff
Wilson	Zimmer
Wise	

NOES—4

NOT VOTING—18

Brewster	Hall (OH)	Roth
Collins (IL)	Harman	Solomon
Dunn	Hayes	Souder
Ford	McDade	Taylor (NC)
Gibbons	Molinari	Tiahrt
Gunderson	Mollohan	Visclosky

□ 1918

So the amendment was agreed to. The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. COLLINS of Illinois. Mr. Chairman, this evening, May 7, 1996, I was unavoidably absent for rollcall No. 146, on a Slaughter amendment to H.R. 2974, the Violent Crime Control and Law Enforcement Act of 1994.

Had I been present, I would have voted "aye."

AMENDMENT OFFERED BY MR. DEUTSCH

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

The Clerk read as follows:

Amendment offered by Mr. DEUTSCH: Page 3, line 14, after the period insert "If the crime of violence is also a sex crime against a child, the enhancement provided under the preceding sentence shall be 6 instead of 5 levels."

Mr. DEUTSCH. Mr. Chairman, earlier this evening this House adopted an amendment where I mentioned an incident that had occurred in Florida unfortunately within the last 12 months and has occurred in Florida and everywhere unfortunately in this country on many occasions, and that is the exploitation of young children. Specifically I mention the name of Jimmy Rice, who was a young boy who was missing from his home for several weeks and actually several months in south Florida, which really became the focus of our entire community. He was missing and then subsequently found to have been sexually abused and murdered.

It is a crime that occurs in America far too often, as I said, and it is a crime where I think as an individual, as a society, as a community, we can think of probably nothing worse that can happen to a young child and to their family.

Mr. Chairman, we have had a discussion for several hours now about our role in sentencing and our role as a United States Congress in sentencing and setting up penalties for crimes. There has been a debate that has gone on literally for several hours now. I would say to my colleagues that for anyone who has ever spoken to a parent of a victim in a circumstance like this, at that point they would want to be involved in determining the penalty for perpetrators of crimes like this.

We can talk about all the theory we want about judges being impartial and

unsensitized, and the Sentencing Guidelines Commission being impartial, and policymakers, but the truth is in our political process, the fact that we are elected officials, that we represent constituents, that we have to face real people, real parents, and talk to them and try to explain to them why a victim and why a perpetrator are treated differently, and why perpetrators are not punished to the extent that they can be and should be under the law.

This amendment is really an attempt to do exactly that, to say in the case of sexual abuse of a child that we are saying that crime is so heinous, so awful, so indescribable from our perspective as a society, as a collective society that this Congress represents, that we are speaking as Americans, as this collective community of America, and saying to the world, and saying to people as a deterrent and as a punishment, "If you are someone who is going to commit that kind of crime, the we are going to treat you as harshly as we possibly can."

□ 1930

This amendment does that, combined with the prior amendment which creates essentially a two strikes and you are out provision. As I mentioned, I would support a one strike and you are out provision in a case like this.

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

Mr. Chairman, I strongly urge my colleagues to support the Deutsch amendment. It makes imminent sense. He is adding an additional level of punishment for those who commit sex crimes against children. It seems to me it is perfectly consistent with what we are trying to do with the underlying bill, and that is send a message to anybody who perpetrates a crime on a child that they are going to get an extra amount of time in prison for doing that at a Federal level for a Federal crime.

This is a Federal crime. He is dealing with a sex crime on top of that. It seems only appropriate that you add an additional level when you are dealing with a sex crime against a child. I think most of us would concur in that without dispute. I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. DEUTSCH].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. CONYERS

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

The Clerk read as follows:

Amendment offered by Mr. CONYERS: Page 3, line 13, before the first comma, insert "or a crime involving fraud or deception".

Page 3, line 13, strike "of violence".

Mr. MCCOLLUM. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Florida reserves a point of order.

The gentleman from Michigan is recognized for 5 minutes.

Mr. CONYERS. Mr. Chairman, this amendment would merely add crimes of fraud and crimes of deception to those crimes against children and women and the elderly that would receive enhanced penalties.

This amendment would add crimes of fraud and deception to those crimes against women, children, and the elderly that would receive enhanced penalties.

The reason is that fraud against the elderly has become a significant problem, particularly telemarketing fraud. Law enforcement officials, the AARP research, and much anecdotal evidence from telemarketers confirm the belief that many older Americans are being wrongly targeted by telemarketing fraud.

The Federal Bureau of Investigation recently documented this pattern of victimization in its recent telemarketing investigation, which used AARP members and others to obtain undercover tapes with fraudulent telemarketers.

The investigation showed that 78 percent of the targeted victims were in fact older Americans. Given the expected growth in the Nation's elderly population, the number of consumers considered vulnerable to telemarketing fraud is quite likely to increase in the future. But telemarketing is not the sole source of the problem. The Internet, while not yet commonly used as a method of conducting fraudulent methods of transaction, is a growing source of concern. Although commonly believed to be a tool of the young, we are now finding many elderly people beginning to surf on the net.

The National Consumers League and the National Fraud Information Center estimate that senior citizens lose at least half of the \$60 billion annually that is lost due to fraud. Unfortunately, fraud strikes elderly victims the hardest. Many of these individuals are living on fixed incomes and are easy prey because they lack the defenses necessary to withstand smooth-talking promoters who sound and act like friends of the victims' families.

Mr. Chairman, we need to treat fraud against the elderly not as isolated cases, but as a widespread social problem and a serious crime that must be addressed. I urge that we add this important provisions to protect our most vulnerable citizens from those who are continuing to prey on them through telemarketing, the Internet, and other white collar crimes. I urge the support of the amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Florida [Mr. MCCOLLUM] insist upon his point of order?

Mr. MCCOLLUM. I do, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized in support of his point of order.

Mr. MCCOLLUM. Mr. Chairman, this amendment is not germane to the bill.

The underlying bill involves only crimes of violence, whether against an elderly victim, a child, or other vulnerable person. Consequently, this amendment, which deals with crime and deception and not involving crimes of violence, is beyond the scope of the bill. I would urge that it be ruled out of order. It is inappropriate under the circumstances.

Even though we may like to give crimes against the elderly involving fraud and deception and nonviolent matters additional punishment, this is simply not what this bill is about.

The CHAIRMAN. Does the gentleman from Michigan [Mr. CONYERS] desire to be heard on his point of order?

Mr. CONYERS. Mr. Chairman, I do.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. CONYERS. Mr. Chairman, I cannot understand why the distinguished chairman would want to raise a point of order against the amendment, because we have been given a bill which purports to protect children, women, and the elderly.

They have allowed the gentleman from Texas [Mr. FROST] to offer what was clearly a non-germane amendment relating to sex offenses against children, and now, suddenly, when it comes to protecting the very same elderly against pervasive and damaging telemarketing fraud, we raise a technical objection. So I think this is a very misplaced sentiment in an attempt to allow white collar crime to continue to victimize seniors, while crimes of violence are all of a sudden made germane, even when an argument can be made against it.

The amendment is germane, because the fundamental purpose of this bill is to enhance penalties for those crimes that target our most vulnerable citizens, the elderly and the young and women. For those reasons, I urge that the point of order be turned aside.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

If not, the Chair is prepared to rule.

The bill, as amended, enhances penalties for violent crimes against vulnerable persons. In addition, it establishes criminal liability for certain crimes of violence against vulnerable persons.

The amendment as offered by the gentleman from Michigan [Mr. CONYERS] would disturb the coherence among the provisions of the bill. It is not confined to the subject of violent crimes against vulnerable persons and punishments therefor.

Accordingly, the amendment is not germane, and the point of order is sustained.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. CONYERS

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

The Clerk read as follows:

Amendment offered by Mr. CONYERS: Page 3, 13, before the first comma insert "or an environmental crime".

Page 3, line 13, strike "of violence".

Mr. MCCOLLUM. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Florida reserves a point of order.

The gentleman from Michigan [Mr. CONYERS] is recognized for 5 minutes.

Mr. CONYERS. Mr. Chairman, I think we have to recognize that this amendment would simply add environmental crimes to those crimes against the children and the elderly that would receive enhanced penalties.

Now, why is that critical? The reason is that environmental crimes, for example, the knowing pollution or contamination of our environment, tend to have a much more severe impact on our most vulnerable citizens, namely children and the elderly.

For example, the severe impact environmental crimes can have is dramatically brought to bear in Woburn, MA, in the case where numerous children died of leukemia after drinking water where toxic waste was dumped by subsidiaries of two of our country's most influential, multinational corporations.

If we are going to say crimes of violence against children and the elderly are deserving of more serious punishment, it is only fitting that we so treat environmental crimes, which have a disproportionate effect on children and the elderly and which can be equally or more deadly. A refusal to treat environmental crimes as seriously as crimes of violence really indicates that it is not really the effect of crime with which we are concerned, but the perpetrator.

I see that as a serious mistake in the development of this criminal justice bill. Environmental crimes are generally committed by large corporations. In contrast, crimes of violence usually are created by less influential individuals. So it is important to treat all crimes that harm youngsters equally, to treat all crimes that have a significant adverse impact on children and the elderly with equal seriousness.

I offer the amendment, and hope that the Members will join me in supporting this amendment.

Another example of the kind of behavior that this amendment would speak to is several years ago two 9-year-old boys were killed by fumes from hazardous waste illegally disposed of in a dumpster. It was a clear case of criminal misconduct. The jury awarded the families \$500 million in damages against the defendant, the largest wrongful death lawsuit in the history of the Nation, but they have not paid it because they declared bankruptcy. So far, the fine of the Federal court has not been paid either.

The only way to punish the wrongdoers in a case like this is to subject the defendants in the corporation to significant jail time. Under current sentencing, under the guidelines, the perpetrators served a mere 27 months.

It is fine to say you are tough on crime, but let us make sure we punish

all the criminals who place the children and elderly at risk.

A few month sentence for hazardous dumping that costs children their lives needlessly is simply not enough, and should be subject to the sentence enhancements that are going on in the several amendments underlying the Chrysler bill that is still on the floor.

I urge Members to support this commonsense amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Florida [Mr. MCCOLLUM] insist upon his point of order?

Mr. MCCOLLUM. I do, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized in support of his point of order.

Mr. MCCOLLUM. Mr. Chairman, as with the previous amendment, I do not believe that this amendment is germane, because the underlying bill's scope involves crimes of violence against children, elderly persons, or other vulnerable persons. This amendment involves an environmental crime. We do not even know by definition what an environmental crime is. I know of no definition under title 18 of an environmental crime. Whether or not that is in and of itself a reason for this to be nongermane, it certainly is equally as nongermane as the fraud and coercion efforts made a moment ago, because it does not involve the underlying crime of violence this bill speaks to and the bill is not broader than that.

The CHAIRMAN. Does the gentleman from Michigan [Mr. CONYERS] wish to be heard on his point of order?

Mr. CONYERS. I would like to be heard in opposition to the point of order.

The CHAIRMAN. The Chair will hear the gentleman.

□ 1945

Mr. CONYERS. Mr. Chairman, I would like to appeal to the Chair to consider adding environmental crimes to the measure before us as a germane provision.

Mr. Chairman, as written, the bill refers to crimes of violence which include, of course, physical force. Now, at first glance, environmental crimes might not appear to be involving physical force. But then one need only recall that murder is a crime of violence and that murder can be accomplished by nonphysical means like poison. Even though the perpetrator may not be even present at the time of the actual ingestion of the poison, poisoning someone is no less murder because there is no physical contact.

Likewise, Mr. Chairman, the adding of environmental crimes as an appropriate and germane part of the provisions and the objectives sought in H.R. 2974, would make, I think, quite rational sense. Environmental crimes are similar if not identical to the example of poisoning by murder. A company, for example, deliberately dumps chemicals that it knows are dangerous into a

water supply. Is that a physical crime? Inevitably harm results to the people who drink the water, sometimes resulting in death. In Woburn, MA, we saw numerous children develop leukemia and eventually die from the disease contracted as a direct result of the poisoned water they consumed. Would a rule of germaneness take a crime of that nature and that level of violence out of the provisions of enhancing crimes to children in this measure? I would argue that it should not. Is that company any less responsible for these deaths than a murderer is for his? I think not.

Mr. Chairman, if my colleagues are concerned about the level of intent, whether the company intended the children to die, well, intent is a question that in every murder investigation or trial will be determined in a court of law.

Using my example, Mr. Chairman, I have attempted to make a distinction from the previous measure that I offered, and I argue that the environmental crimes are violent in effect and are too important and serious for it to be ruled out of order because such crimes have not historically been considered in this genre.

I urge the Chairman to dismiss the point of order.

The CHAIRMAN. The Chair is prepared to rule. As was the case with the ruling on the previous amendment, this particular amendment also disturbs the coherence among the provisions of the bill. It is not confined to the subject of crimes of violence as that term is given meaning in section 16 of title 18 of the United States Code, and it does not cover violent crimes against vulnerable persons and punishments therefore.

Accordingly, the ruling of the Chair is that the amendment is not germane and the point of order is sustained.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. CONYERS

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

The Clerk read as follows:

Amendment offered by Mr. CONYERS: Page 3, 13, before the first comma insert ", including those crimes of violence involving the environment".

Mr. MCCOLLUM. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] reserves a point of order.

The gentleman from Michigan [Mr. CONYERS] is recognized for 5 minutes in support of his amendment.

Mr. CONYERS. Mr. Chairman, I now have an amendment that would make it clear that environmental crimes of violence are included in the definition of crimes of violence to which enhanced penalties will attach.

Mr. Chairman, in another previous amendment I would have added environmental crimes as a distinct class of crimes in addition to crimes of violence for which there could be enhanced penalties. But this amendment

differs in that it merely specifically provides for the definition of crimes of violence to include crimes of violence that are environmental in nature.

Again, let us use the crime of murder by poison. Poisoning is considered and is a crime of violence. Similarly, if a company contaminates a community's water supply, thereby poisoning residents with death resulting to some young and old victims, this amendment would require that enhanced penalties attach.

So, Mr. Chairman, I believe without my amendment, even a prosecutor could justifiably argue that the contamination of a water supply resulting in deaths could be a crime of violence qualifying for increased penalties. But this amendment would dispel those doubts and make it clear that environmental crimes resulting in physical harm should have the same penalties as other crimes resulting in physical harm.

In fact, there is little or no difference. Let me describe the kind of behavior that would be prosecutable in the event my amendment wins passage.

Several years ago two 9-year-old boys were killed by fumes from hazardous waste illegally disposed of in a dumpster, and the jury made an award in a wrongful death lawsuit, but they have never been able to recover. The corporation merely declared bankruptcy.

Unless we are able to go to the corporate personal defendants who could be eligible for significant incarceration under this provision, there is no way that they can be reached. And so, I think it is wonderful to say we are tough on crime, but let us make sure that we punish the full range of people who commit criminal acts, who place our children and elderly at risk.

A 27-month sentence for hazardous dumping that costs a number of children their life is simply not strong enough, and the sentencing enhancements that have been discussed on this floor in the underlying bill should apply to the circumstances that I have raised as an example in support of this amendment.

Mr. Chairman, I urge the Committee to support the amendment and add this very important part of criminal conduct to be subject to enhanced penalties.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Florida insist upon his point of order?

Mr. MCCOLLUM. I do, Mr. Chairman.

Mr. Chairman, the underlying bill is, yes, a question of defining a crime of violence, and it talks about a crime of violence against a child, elderly person, or other vulnerable person and it explicitly defines a crime of violence: the meaning given that term in section 16 of title 18 of the United States Code.

Mr. Chairman, I can read section 16 of title 18. It says: The term "crime of violence" means an offense that has as an element, the use, attempted use, or threatened use of physical force

against a person or property of another or any other offense that is a felony and that by its nature involves substantial risk that physical force against a person or property of another may be used in the course of committing the offense.

Mr. Chairman, I do not know what in the world a crime of violence involving the environment means. I think that this amendment is not germane to this bill because it inherently goes outside the definition of a crime of violence that is written. I would submit that no court in this land could interpret what the gentleman has written and that it is therefore destructive of the underlying premise of this bill and, therefore, beyond the scope and inappropriate to this bill.

Mr. CONYERS. May I be heard, Mr. Chairman?

The CHAIRMAN. The gentleman from Michigan is recognized.

Mr. CONYERS. The arguments against germaneness coming from the chairman of the Subcommittee on Crime would carry much more resonance if, through his agreement, and the Committee on Rules, we have already made measures germane that would have clearly been nongermane.

The question is: What shall we make germane and what shall we make not germane? And to argue that these kinds of crimes that clearly call out for criminal penalties should not be included merely because they are not violent in the traditional sense of violence, there are many crimes that occur that are not physically violent. There is no physical act of violence when a person is murdered by poisoning. There is none. They are not excluded. They do not fall to the argument of being nongermane.

And so, Mr. Chairman, I would say that this amendment relates to the subject matter as the legislation does before us. The subject before us, of the bill before us, is limited to crimes of violence which are committed against the elderly, young people, and other vulnerable persons. My amendment is limited to these same precise categories. The crime involved must be a crime of violence and it must be committed against a child, elderly person or other vulnerable person. On that basis, I urge that the point of order be rejected.

The CHAIRMAN. The Chair is prepared to rule.

This amendment offered by the gentleman from Michigan ensures that the definition of a crime of violence under section 16 of Title 18 may include a crime involving the environment as a subset of a crime of violence for the purposes of the pending bill. As such, the amendment does not disturb the coherence among the provisions of the bill. It is confined to the subject of violent crimes against vulnerable persons and punishments therefor, unlike the prior amendment.

Accordingly, it is the rule of the Chair that the amendment is germane and the point of order is overruled.

For what purpose does the gentleman from Florida [Mr. MCCOLLUM] rise?

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

The CHAIRMAN. The gentleman will suspend.

Mr. CONYERS. Regular order, Mr. Chairman. Should I not be recognized in support of my amendment?

The CHAIRMAN. With all due respect, the gentleman was recognized after the designation of the amendment prior to the point of order.

The Chair recognizes the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I am not going to oppose the amendment, though I think that it is a superfluous amendment. It is oratory in nature, by the ruling of the Chair. I can sit here and list other crimes of violence involving all kinds of things beyond the environment as long as they involve something having to do with violence. And I can think of A, B, C, D, E, and F and add them to this bill. The gentleman wants to make this point and he has had the opportunity. He is getting to add his language to this bill to do that.

Mr. Chairman, I think it is interesting and ironic that the gentleman spends time in committee arguing that we should not incarcerate nonviolent offenders. Tonight he attempted earlier to expand the definition of violence to include dumping waste in the ocean, spilloff into the rivers, and dirty car exhausts.

Mr. Chairman, I would submit that those are not crimes of violence. Obviously, if one can figure out what a crime of violence is that involves the environment or involves anything else, then of course if it is truly a crime of violence involving murder, rape, robbery, and assault, I would suggest that it would come with the scope of the bill, obviously. But certainly it is not simply going to be dumping waste in the ocean, spilloffs into rivers, or dirty car exhausts. There may be other Federal laws that are violated, but not crimes of violence laws.

Anyway, Mr. Chairman, based upon the ruling of the Chair that we are not actually adding any scope to this bill, I will not object to this amendment.

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

Mr. Chairman, I wish I could do imitations because if I could, I would imitate former President Reagan when he said, "Here we go again." Because we are on this slippery slope and we cannot get off. We keep adding things that make no sense. And with all respect, this makes as much sense as everything else.

But the point I want to make is that we should not be doing this in the context of this bill. This bill should not be here. We should be allowing the process that we have set up and have followed for a long, long time to get the politics and irrationality out of sentencing, out of the process.

We should be allowing the Sentencing Commission to do exactly what we set up the Sentencing Commission to do. And despite that, here we go again. As President Reagan would say, "There you go again."

We are going to add any kind of conceivable thing and the reason we are going to add it is because politicians like politically to be viewed as tough on crime. I do not have any problem with that. But we need to have some rational underlying basis by which we are proceeding, and this bill now does not have that. It did not have it when it first started out, and every time we have added some new violation that triggers this kind of vulnerable mentality, then we have made this more a mockery. We are now doing an injustice, a severe injustice to public policy.

□ 2000

There are a bunch of vulnerable people, and we could add all of them to this bill. There is really no place to cut is off. That is why we gave this responsibility to the Sentencing Commission, to get it out of the irrational political, reactionary process that we are now following this evening.

Mr. Chairman, I hope my colleagues will come to the realization that what we are doing is just bad, bad, bad public policy and will reconsider this entire bill and allow the Sentencing Commission to continue the job it has been set up to do.

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

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

Mr. CONYERS. Mr. Chairman, I thank the gentleman from Michigan for yielding to me.

I want to thank the gentleman from Florida, the chairman of the Subcommittee on Crime, for agreeing to accept the amendment. I also want to thank the gentleman from North Carolina [Mr. WATT] for continuing to object to the entire procedure.

Let me first remind the chairman of the Subcommittee on Crime that one of the measures that led me to introduce environmental crimes is the fact of the two 9-year-old boys in his State, if not his district in Florida, who were killed from a wreck of hazardous waste illegally disposed of in a dumpster. The two individual defendants, the plant manager and the shop foreman, were convicted of hazardous waste felonies. Each was sentenced to serve 27 months in prison under the terms of a guilty plea that included knowing endangerment. They went to 5 years probation.

I think the gentleman would agree that these kinds of crimes are as serious as all the others that we have dealt with. Now, that does not in the least detract from the validity of the arguments offered by the gentleman from North Carolina. I am placed in the precarious position of agreeing with the gentleman from North Carolina, but we

are here adding these measures tonight. To leave out crimes of an environmental nature where there is deliberate, reckless endangerment, knowledge and intention, would, to me, be an incredibly wrong thing to do.

This is the slippery slope that we are on. I am on it. I am not going to leave out environmental crimes because of the irrationality of what the majority of the Members have willed here today.

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

Mr. STUPAK. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, I just want to make it clear to the gentleman that his amendment is just as rational as the underlying bill. I am not singling out his amendment. If I had to think of crimes that I would want to include on this, this would probably be one of them. But it illustrates, again, how irrational the process is we have embarked upon when we start down this slippery slope. There is no way to get off of it. I hope the gentleman understands that this does not have to do with his amendment. It has to do with the process, which is what I have been talking about all night.

Mr. CONYERS. Mr. Chairman, if the gentleman will continue to yield, I hope that the gentleman understands that this does not have to do with my disagreeing with his basic contention, but it has to do with the fact that we find ourselves tonight on this slippery slope. If we are on the slippery slope for all its irrationality, I do not want to exclude environmental crimes.

I thank my colleague from Michigan for yielding me this opportunity to express my agreement with both the gentleman from Florida and the gentleman from North Carolina.

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

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. STUPAK

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

The Clerk read as follows:

Amendment offered by Mr. STUPAK: At the end of the bill, add the following:

SEC. . PROHIBITIONS RELATING TO BODY ARMOR.

(a) **SHORT TITLE.**—This section may be cited as the "James Guelff Body Armor Act of 1996".

(b) **SENTENCING ENHANCEMENT.**—The United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any crime of violence against a vulnerable person (which for the purpose of this section shall include a law enforcement officer) as defined in section 240002 of the Violent Crime Control and Law Enforcement Act of 1994 in which the defendant used body armor.

(c) For purposes of this section—

(1) the term "body armor" means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a

complement to another product or garment; and

(2) the term "law enforcement officer" means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

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

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

There was no objection.

Mr. MCCOLLUM. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] reserves a point of order.

Mr. STUPAK. Mr. Chairman, let me address the substance of my amendment and also the point of order being reserved by the majority.

Mr. Chairman, I do believe that my amendment is germane to H.R. 2974. Whereas 2974 seeks to provide enhanced penalties for crimes against elderly and children, it also specifies crimes against, and I quote, vulnerable persons. These are defined in the bill as individuals who, due to age, physical or mental condition or otherwise, are particularly susceptible to criminal conduct.

When it is a situation where law-abiding citizens and laws enforcement officers are confronted by criminals wearing body armor, especially police officers, then I think it is fairly obvious to everyone except maybe the criminal that the police officer is in a vulnerable position. As such, this amendment is highly relevant and germane to the legislation before us today.

Mr. Chairman, my amendment seeks to control the growing use of body armor by criminal elements and impose penalties for those who wear body armor while committing Federal crimes. Body armor, the protective personal devices commonly utilized by those in law enforcement, are vests and helmets made from Kevlar. Other advanced materials are increasingly becoming a common tool used by those who seek to break the law and victimize innocent citizens.

This amendment is very similar to legislation I introduced last year, H.R. 2192, the James Guelff Body Armor Act. I act now today because we have been unable for more than a year to get even a hearing on this legislation.

Mr. Chairman, to illustrate the point that we are at, Mr. James Guelff was gunned down on the streets of San Francisco on the night of November 14, 1994, following a violent shootout with a heavily armored and well-protected criminal. This criminal and killer was decked out in a bullet-proof vest and helmet. He was virtually unstoppable by more than 100 San Francisco police officers as he unloaded more than 200

rounds of ammunition into a residential neighborhood.

Only a strategically aimed shot by a marksman was able to bring a night of violence to an end but not soon enough for Officer Guelff. I have heard from law enforcement officers all across this country about the increasing occurrences of drug dealers and other suspected suspects possessing body armor. From Baltimore to Texas, from Michigan to Los Angeles, criminal elements are being transformed into basically unstoppable terminators with virtually no fear of police or other crime fighters.

These heavily protected criminals are capable of unleashing total devastation on civilians and police officers alike. The increasing availability of body armor in the wrong hands can only direct a greater danger to America and greater danger to the American people and a growing threat to our institutions. Quite simply, my amendment seeks to impose penalties when body armor is used in committing a violent crime.

Mr. Chairman, penalties will be determined by the Sentencing Commission. Although technological advancements have helped law enforcement officers fight crime and counter terrorism, these same high-technology advancements when ending up in the wrong hands pose new challenges and a growing danger to police officers and all others who seek to protect and safeguard our citizens.

I have received very positive feedback from those in law enforcement in support of this measure. I would hope that the majority would see the need for providing enhanced safety and penalties and my amendment would achieve this goal.

This amendment as has been drafted and appears before us now, the amendment is supported by the Fraternal Order of Police, the National Sheriffs Association, National Troopers Association, and by police departments from Boston to Los Angeles and other major cities and jurisdictions across this country.

I ask that there be support for this law enforcement amendment and support for this important bill not just for women and children and elderly but for everyone.

The CHAIRMAN. Does the gentleman from Florida [Mr. MCCOLLUM] insist on his point of order.

Mr. MCCOLLUM. Mr. Chairman, I withdraw my reservation of a point of order.

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

Mr. Chairman, I think what the gentleman wants to do here, now that I have examined his revised amendment from what he had earlier produced, is a positive thing. It does not go to children. It does not go to women. It does not go to the elderly. It really should go, and I think he is trying to make it go, to the police. It obviously does not go to every police officer.

I would certainly engage the gentleman, if he would, so we can clarify this. It would involve a law enforcement officer, I presume, based upon the Federal sentencing guidelines and the fact that all of the underlying crimes that we are dealing with here today are Federal crimes, that it would be a Federal law enforcement officer for whom this would apply, when you have indicated in your parenthetical, which for the purposes of a vulnerable person, which for the purposes of this section shall include a law enforcement officer. Would we not just inherently conclude that we are dealing with Federal law enforcement officers by the nature of the underlying bill and the nature of the Federal sentencing guidelines?

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

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

Mr. STUPAK. Mr. Chairman, because of the issue here and the term "law enforcement officer," we actually defined it in the bill as being an officer, agent or employee of the United States, a State or political subdivision authorized by law or government agency.

I mean when we take a look at this, I think this would include any law enforcement officer in the United States.

Mr. MCCOLLUM. Well, I have a question. Reclaiming my time, if you do include any police officer involving this, the question I guess involves one of whether or not there will be a crime where that is a Federal crime at the beginning that would include a police officer who is not a Federal officer that is a criminal crime, and there may be some cases like that, that is a Federal crime to begin with.

My reason for the puzzlement is even though I have read the definition, I think your original construct and your intent and you would have done it by separate legislation, had you had the opportunity, and it is not a bad idea, is to make it a Federal offense or crime to actually commit a certain type of activity and crime against, violence against law enforcement officers generally in the country using these kind of vests, these kind of devices. But the way you have reconstructed this to fit it and make it germane to this bill is in such a way that I would believe, though I could be wrong, because I do not have all of the Federal criminal laws out in front of me now with all the sentences to go over tonight, there are numerous of them, but I would believe it would be very rare cases in which the underlying crime for which the enhanced sentence would occur would involve a local law enforcement official. But in any event, I am not going to oppose the amendment. I am just trying to work through it in my own mind.

Mr. STUPAK. Mr. Chairman, if the gentleman will continue to yield, for the enhancement aspect of it, the underlying crime would have to be a Federal crime. The individual who may be in pursuit of this criminal could be a

law enforcement officer from any jurisdiction, but the Federal crime that they are in pursuit of this criminal for would have to be a Federal crime as defined in the Violent Crime Control and Law Enforcement Act of 1994. So the underlying crime, you are absolutely correct, the protection would extend to anyone investigating that Federal crime where they met such an individual wearing this protective device.

Mr. MCCOLLUM. Fair enough. I think with that clarification, it helps a lot. So we understand, we are not creating any new Federal crimes, as we did on an earlier amendment. With this in mind and believing as I do and wanting to protect the police officers of our Nation and anybody else, for that matter, in terms of the situation where you might be wearing a vest like this, a body armor, I would support this amendment.

Mr. STUPAK. Mr. Chairman, I would ask, this was a small step here we are doing here tonight, but we do have the main underlying bill. And we have been trying to find a vehicle and even have some hearings on it. I would ask that the chairman give us due consideration of the full bill, the James Guelff Body Armor Act of 1996, so we can get to extend it to all police officers, not just Federal crimes but also State and local violations of law. So I would once again ask the chairman at a time hopefully very soon that we could address this issue further. This is just a small step tonight. I would like to take it one step further.

Mr. MCCOLLUM. Reclaiming my time, Mr. Chairman, I know the gentleman is very sincere in wanting to press his entire full bill, and I respect that and, assuming we can work it into the crime agenda, I am not adverse to having a hearing on it, as I indicated before. We are in the process now of trying to figure out our schedule for the balance of the year. I thank the gentleman.

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

Mr. WATT of North Carolina. Mr. Chairman, I ask unanimous consent that the reporter be allowed to read back my arguments on the Slaughter and Conyers amendment so that I do not have to repeat them on this amendment.

The CHAIRMAN. Unfortunately, the Chair cannot entertain that unanimous-consent request.

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

Mr. Chairman, I will not take the 5 minutes. I will simply say ditto, here we go again, and yield back the balance of my time.

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

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MS. DELAURO

Ms. DELAURO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. DELAURO: At the end of the bill, add the following:

SEC. 3. AMENDMENT OF SENTENCING GUIDELINES TO PROVIDE FOR ENHANCED PENALTIES FOR A DEFENDANT WHO COMMITS A CRIME WHILE IN POSSESSION OF A FIREARM WITH A LASER SIGHTING DEVICE.

Not later than May 1, 1997, the United States Sentencing Commission shall, pursuant to its authority under section 994 of title 28, United States Code, amend the sentencing guidelines (and, if the Commission considers it appropriate, the policy statements of the Commission) to provide that a defendant convicted of a crime of violence against a child, elderly person, or other vulnerable person (as such terms are defined in section 240002(b) of the Violent Crime Control and Law Enforcement Act of 1994) shall receive an appropriate sentence enhancement if, during the crime—

- (1) the defendant possessed a firearm equipped with a laser sighting device; or
- (2) the defendant possessed a firearm, and the defendant (or another person at the scene of the crime who was aiding in the commission of the crime) possessed a laser sighting device capable of being readily attached to the firearm.

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

The CHAIRMAN. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

(Ms. DELAURO asked and was given permission to revise and extend her remarks.)

Ms. DELAURO. Mr. Chairman, I rise today to offer an extremely important amendment to improve the protections that are already included in this measure for our Nation's children, elderly and other vulnerable citizens. Public citizens today are facing a deadly new threat on the streets of my home State of Connecticut and across the Nation: the new threat is the emergence of laser sighting devices that are aimed at our law-abiding citizens.

These laser sights, mounted on the barrel of a gun, emit a tiny red beam of light that the shooter uses to line up the targets. In the hands of a criminal, these high-technology weapons turn ordinary street thugs into sharpshooters.

My amendment directs the U.S. Sentencing Commission to increase penalties for individuals convicted of crimes of violence involving laser sighting devices when that crime is against a child, a senior, or a vulnerable person as defined by the bill. The amendment will deter the use of laser sight technology in street crime and require the Sentencing Commission to collect data on laser sighting devices in violent criminal activity throughout the Nation.

It is narrowly crafted legislation. It focuses on the criminal to crack down on violent crime. It is a noncontroversial approach that Members can support regardless of their views on gun legislation in general.

I offered a similar, but broader, amendment to the antiterrorism legis-

lation in March. The amendment had wide bipartisan support and passed by voice vote. Unfortunately, the amendment was removed in conference.

Let me stress the amendment does not ban laser sight technology, nor does it ban guns equipped with laser sights. Again, it does not ban laser sight technology, nor does it ban guns equipped with laser sights. This is not about gun control, it is about crime control and justice for the victims of violent crime.

Mr. Chairman, I crafted this legislation with the help of local law enforcement in Connecticut.

With their input, this legislation has won endorsements from the National Fraternal Order of Police, the International Brotherhood of Police and others.

Let me read directly from the letter of support that I received from the National Fraternal Order of Police regarding the legislation.

The citizens of this nation already suffer far too much from tragedies precipitated by firearms crime. This problem is exacerbated by criminals using laser sights to make their criminal activity even more deadly.

Proliferation of this new technology is growing at an alarming rate among street thugs in communities across America. On Christmas Day of last year and during the first weeks of the New Year, guns equipped with laser sights have taken lives and evoked fear amongst families in my district. That is why I am offering in this amendment today.

The enhanced accuracy that these laser sighting devices generate in the hands of the violent criminal create a "Super-gun," which aimed directly or indirectly at a target, make victims of innocent children, our seniors and other community members as they live and work in our neighborhoods.

In closing, let me read to my colleagues from a letter I received from the Connecticut Police Chiefs Association's president, Chief James Thomas, in strong support of my amendment:

Your legislation is a step in the right direction to reaffirm that society will not tolerate the use of sophisticated weapons by criminals against its citizens.

This bill punishes the criminal, not law-abiding gun users or gun owners, and I urge its immediate passage. I urge my colleagues to protect our most vulnerable citizens from violent crimes involving laser sights.

Mr. Chairman, I ask for a favorable vote on this amendment.

Mr. MCCOLLUM. Mr. Chairman I move to strike the last word.

Mr. Chairman, I am not going to oppose this amendment, because, obviously, if anybody commits a crime against a vulnerable person like a child or a senior citizen using a firearm equipped with a laser sighting device, I do not think any of us would want to argue that that person ought not to get the book thrown at him. But I would like to think we are going to throw the book at him for a lot of things that are

less even than that in scope or seriousness, using a gun and lots of other things.

But I would submit that there are very, very few crimes that would be committed that would come under the jurisdiction of this law that would involve somebody possessing a firearm equipped with a laser sighting device. I do not, in fact, know of any crimes against children or the elderly that have been committed with them, although that is always possible, and I am not going to oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Connecticut [Ms. DELAURO].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA

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

The Clerk read as follows:

Amendment offered by Mr. WATT of North Carolina: Page 4, line 2, at the end, delete the "." and insert ", by virtue of residence in any neighborhood in which the incidence of violent crime is above the national average, is particularly susceptible to criminal conduct."

Mr. MCCOLLUM. I reserve a point of order, Mr. Chairman, on the amendment offered by the gentleman.

Mr. WATT of North Carolina. Mr. Chairman, there really is no more vulnerable population in America in terms of being exposed to criminal conduct than the people who live in the lowest-income areas in America, and when we start talking about who is vulnerable, sure, the elderly are vulnerable; sure, children are vulnerable, sure police officers are vulnerable. The list can go on, and on, and on, and on.

But there really is no more vulnerable population than the population that lives in areas of our country where the incidence of crime is far above the national average.

Mr. Chairman, this kind of illustrates how insane the process is we have embarked upon this evening. If we are going to set out to define who the vulnerable people were in our country—who is vulnerable to crime—we would have started with this amendment that simply says a vulnerable person under this bill is one who lives in a neighborhood where the incidence of violent crime is above the national average.

I am the first to stand here, even though it is my amendment, and confess to my colleagues that it makes no sense. But it makes just as much sense to do this in this bill as the bill when we started out as the Frost amendment when he added it, as the Slaughter amendment when she added it, as the Conyers amendment when he added it, as the Stupak amendment when he added it, and my friend from Connecticut, the last amendment, when she added hers.

What we are doing is a gross violation of the public safety and the trust that we owe to the citizens in this country. We are talking a very serious issue, and we are politicizing it. We are bringing it in here and saying let us make fun of these things, in effect, because we are in a political year, let us beat on our chest and show America how hard on crime we are, instead of following a responded policy that Republicans and Democrats alike on a bipartisan bases have agreed upon for years.

So I offer this amendment to show how slippery that slope is. Where do we draw the line? How do we draw the line? What makes sense on who is vulnerable and who is not vulnerable in our country if we do not get to the underlying cause of violent crime in the first place? Why signal one group out and exclude another?

But, most importantly, why do we bring this into this context, into a political context, this serious debate, and take it away from the nonpolitical, reasoned, rational process that we have set up?

We are supposed to be setting public policy here. That is what we all were elected to do. And I have heard on this floor tonight people say, "Okay, well, it sounds good, even if it is unconstitutional, I am going to vote for it if you make me do a recorded vote, because I know that if I don't do it, there are political consequences."

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, we have had a series of amendments that illustrate faithfully how absurd what we are doing is, and this one is no worse. It is simply designed to point out to my colleagues that we cannot get off of this slope once we get on it, and that is why we gave the responsibility in the first place to the Sentencing Commission. We have got to be rational about this, and, my colleagues, we cannot be rational about it playing politics with it.

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from North Carolina.

The CHAIRMAN. Does the gentleman from Florida insist on his point of order?

Mr. McCOLLUM. No, Mr. Chairman, I withdraw my reservation of a point of order.

The CHAIRMAN. The gentleman from Florida is recognized for 5 minutes.

Mr. McCOLLUM. Mr. Chairman, the gentleman from North Carolina is offering this amendment, I believe, almost on the face of what he is saying, because he is trying to make this bill absurd on its face. Once this passes, I suspect he will have succeeded if indeed it passes, because, first of all, he

is saying that anybody is a vulnerable person and, therefore, there will be a sentence enhancement if that person is a victim of a violent crime in this country if that person is a resident in any neighborhood in which the incident of violent crime is above the national average.

□ 2030

I would suggest that there are a lot of people, who are residents of neighborhoods where the violent crime rate is above the national average, who may very well be the very people where the criminal element is most strong in. In other words, we may very well find the guy who is dealing in arms, the fellow who has a whole warehouse full of ammunition; terrorists may be living in the neighborhood. I do not think neighborhoods are the way we should go about trying to define who is vulnerable or who is not vulnerable.

There are classes of people, rather than characteristics of geography, which this bill addresses. This bill addresses the issue of children and women and the elderly and, in a stretch, the police who happen to be vulnerable. They are people, not neighborhoods; not Washington, DC, not Orlando, FL, not Jacksonville, FL, not Florence, SC, not New York City. We are not geographically bound by this bill.

I think we make a mockery of this bill to take it to the extreme that this does, to charge the Sentencing Commission with coming back with enhancements of penalties, making penalties greater if you commit a crime against somebody because they happen to be in a neighborhood that statistically has an incidence of violent crime that is above the national average.

I do not even know if we have averages for violent crime in neighborhoods. We do have in cities. We do have it by counties, in some cases. We certainly have by States. But I do not know that we have statistics that measure neighborhoods. We do not even have a definition of a neighborhood, so we are going to expect the Sentencing Commission to derive through some regulatory process what a neighborhood is and how to relate existing statistics to neighborhoods. I do not think that it can probably be done, because I do not think the data is available that would allow us to have the information that would make this amendment meaningful.

By adopting this amendment, Mr. Chairman, the gentleman is doing what he really wants to do, and that is to try to make this bill impossible to become law, to make it one that will never see the light of day in the other body, to make it one which is rendered meaningless.

I think that is kind of sad, because what we are trying to do tonight, what we have been trying to do all afternoon since this bill has been considered that the gentleman from Michigan [Mr.

CHRYSLER] drafted, is to send a message, particularly to those who commit crimes against the most vulnerable people in our society—children under the age of 14 and the elderly—that if you do, then you are really going to be in trouble.

Maybe we should have brought this bill out of here under a modified closed rule instead of an open rule, because we should have recognized that there would be a lot of mischief being played by people who did not agree with the basic idea; who do not believe Congress ought to be telling the Sentencing Commission, when we do not agree with it, that we think their punishment should be stronger and different than what they came back with when we suggested to them that they enhance penalties in the area of those who are particularly vulnerable, who are children and elderly, which is what we did in the last Congress. Maybe we should have foreseen that and not presented this out here under an open rule tonight.

Nonetheless, we did, Mr. Chairman. I would submit that my colleagues need to have the common sense and courage to vote down this amendment; to understand that it is wrong, to understand that it is way too broad; to understand there is no way to define a neighborhood in the first place; and in the second place, we do not have the statistics that would be applicable to make a person vulnerable; and in the third place, I suspect we are going to make a lot of people come under this definition who you would not want to have come under it even if you thought about it and even if you did adopt this, for those who may be truly a little more vulnerable because of somewhere they live than you might imagine.

It is just an unworkable amendment that, if nothing else, I think is designed, quite frankly, to kill this bill. I would urge a "no" vote in the strongest of terms. Somewhere we have to draw the line. I have to draw the line myself, as the chairman of the subcommittee, on what we accept here tonight, and I am drawing the line here and saying this is going way, overboard. I urge in the strongest of terms a "no" vote.

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

The amendment was rejected.

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA

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

The Clerk read as follows:

Amendment offered by Mr. WATT of North Carolina: Page 3, beginning on line 9, strike subsection (a) and insert the following:

"IN GENERAL.—The United States Sentencing Commission shall review the Federal sentencing guidelines to determine an appropriate sentencing enhancement for crimes of violence committed against vulnerable persons.

Mr. WATT of North Carolina. Mr. Chairman, this amendment simply

would request the U.S. Sentencing Commission to review this matter and make recommendations about enhancements for the areas that are covered by this bill.

Mr. Chairman, it is time for us to get a grip. It is time for us to get a grip. We have taken a bill which should never have come to this floor, and it has gone from the ridiculous to the sublime, as somebody used to say to me when I was growing up. We have added a new Federal crime for crossing State lines to engage in sexual acts or sexual abuse of a child under age 12. We have added sex crimes against women. We have increased the enhancement from five levels to six levels. I do not know what the rational basis for that was, if there, in fact, was any. But everybody was afraid to vote against it, so it must have been a good idea, because politically, it is expedient.

We have added environmental crimes when they do violence. We have added mail order sale of body armor, and police officers. We have added laser sighting devices. We have refused to add the most vulnerable populations in our country, those who live in low-income areas, but I submit to the Members that that was no less or more rational than any of the others.

In the process we have illustrated, time after time after time, how slippery this slope is. We have illustrated, time after time after time, why on a bipartisan basis Republicans and Democrats alike joined to establish the U.S. Sentencing Commission and to give it authority to study the issues, to make very difficult judgments, to make our sentencing policy consistent, to take testimony outside the political context, and to rationalize something that ought to be rational, rather than irrational and political.

Mr. Chairman, I beg of my colleagues to get a grip and give this authority back to the Sentencing Commission. I know this is an election year, but our ultimate responsibility is to make sound public policy. We are making a joke of it this evening, because this is a slippery slope we cannot get off.

Mr. Chairman, I ask my colleagues to please pay heed and pass this amendment. Let us get a grip and give the authority back to the body that we set up long ago to make these difficult decisions. Let us play public policy, not politics.

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

Mr. Chairman, I oppose the amendment for pretty obvious reasons, because this amendment that the gentleman from North Carolina [Mr. WATT] offers is one he offered in committee. I know it is offered sincerely, but it does not do the bill. His objective here is to send everything back to the Sentencing Commission and say that Congress, in this bill, is not going to tell you what to do with regard to the enhancement of sentences against those who are most vulnerable: children and women and the elderly. We are going to leave it up to you.

Frankly, Mr. Chairman, I know in principle that is great, but not always does the Sentencing Commission do what we want them to do. In this particular case they did not, at least not what I wanted them to do. They came back with some language that was directional to judges in considering certain matters in the sentencing guidelines, but they did not increase, pursuant to what I thought was the direction of Congress in the last session, in the language we passed directed to them, they did not increase the levels of sentence that would be given to those who commit crimes against the children and the elderly of this Nation.

I am not happy with that. The gentleman from Michigan [Mr. CHRYSLER] is obviously not happy, the author of this bill. I do not think, again, the majority of the American public would be happy without having these punishments enhanced in the sense that they are by the underlying bill we are dealing with here today.

That underlying bill essentially raises by five levels the amount of the sentence that somebody is going to get for any Federal crime they commit against any child or any other defined vulnerable person: the elderly; in certain cases, women. That means on average somewhere a little over 2 years more time in jail for somebody who commits a crime against one of these vulnerable persons, these children or these elderly and certain women, than they are going to get if they commit crimes against somebody else in the average course of affairs.

The important point of this, Mr. Chairman, is we want to send a deterrence specifically that says: "If you do a crime against somebody who is at the weak end of our system and most vulnerable, like a child or like an elderly person, then we are going to punish you more severely." And hopefully, just hopefully, there will be a few less crimes committed against those very vulnerable people. If not, we are certainly going to lock those folks who commit those crimes up for longer periods of time.

The message also is to the States and to the local communities in saying, We are going this by example at the Federal level. We hope that you will follow our lead and increase specifically the punishment for those crimes against the very vulnerable in our society in your States and your local communities by a like measured response, making a distinction and sending a deterrent message, and taking one more step that this Congress has been taking, which is the first Congress in years to do this, along the road of putting swiftness and certainty of punishment and deterrence back into our criminal justice system; sending a message to the criminal that is meaningful, in order that we might, in a few cases, deter crime, and in other cases, take these really, really bad apples off the streets for a long period of time.

Mr. Chairman, I think this is a good underlying bill. The amendment of the

gentleman from North Carolina [Mr. WATT] would destroy it completely. He would say, "We do not agree to do that. We are simply going to redirect the Sentencing Commission to look at all of this again and come out with their recommendations again next year." That is not what this bill does. I urge a "no" vote on this amendment.

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

Mr. Chairman, I rise in support of the amendment offered by the gentleman from North Carolina [Mr. WATT]. The last series of votes points out the reason why the Sentencing Commission is so important. It provides a rational determination of sentence. Without the Sentencing Commission looking at each of these sentences, we can expect life without parole and longer sentences for virtually every crime. Politicians will decorate their brochures with bills that address high profile crimes of the day, or to codify new slogans as they come up.

Mr. Chairman, the answer to crime will always be more time to be served, without regard of what the punishment is without a new bill, just more time. There will be no rational pattern. Should a drunk driver get more than a rapist, or more or less than someone guilty of telemarketing fraud who steals senior citizens' life savings, or more or less than someone involved in a barroom brawl? The Sentencing Commission can make that determination in the context of whether someone caught with a small amount of drugs should serve more time than a murderer.

The legislative process, however, is to deal with the crime of the day or the latest slogan, always more time to be served. Mr. Chairman, it is interesting to see where we are after decades of this process. On an international basis, the United States has the highest rate of incarceration of any country on Earth. Japan and Greece both lock up less than 50 people per 100,000 population; Canada and Mexico, about an average of about 100. There are only two countries in the world that lock up more than 400 people per 100,000 population: Russia and the United States, both around 500 and some. In inner cities in this country today, we lock up 3,000 people per 100,000 population, compared to the international average of about 100.

That incarceration is not free. Virginia, which has tripled the prison population since I was first elected to the house of delegates in the State legislature; in addition to that, recently we have gone on a prison construction binge that will cost \$100 million for each congressional district every year for the foreseeable future.

□ 2045

That is because we keep increasing the time to be served for the crime of the day or the slogan of the day.

Mr. Chairman, if we are going to be serious about crime, we should be

spending that money on initiatives which would actually reduce crime: education, jobs, recreation, drug rehabilitation, not decorating campaign brochures with expensive, haphazard, ineffective rhetoric. That is why we have the Sentencing Commission, to provide a rational, deliberate process to determine sentences, and that is why we should support the Watt amendment.

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

Mr. Chairman, let me just say to the gentleman from North Carolina, he would have my greater attention, perhaps support of this amendment if in the 1994 crime bill we did not ask the Sentencing Commission to look at it. When in fact that was done, the Sentencing Commission chose not to increase these penalties.

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

Mr. BUYER. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, is the gentleman aware that the Sentencing Commission did in fact respond to what we asked them to do and made some major adjustments in the process for evaluating whether to enhance or not?

Mr. BUYER. Reclaiming my time, they chose not to enhance the penalties. So what I am saying here is I agree with your point about reverent, I agree with your point about deference.

What we have here, though, are victims in our society who are asking the Congress to respond. We did it in the 1994 crime bill, whether it was three-strikes-and-you're-out. We have also done it with this bill on increasing the penalties.

We asked them to take a look at increasing the penalties against the most vulnerable in our society, the children and the elderly, and they chose not to increase it. So when they chose not, I think it is now very appropriate and I applaud the gentleman from Michigan [Mr. CHRYSLER] for bringing the bill.

I am also concerned, though, on how this bill in fact is getting saddled down with a lot of other things. The point of the gentleman from North Carolina [Mr. WATT] is very well taken. But I do not believe we should be redirecting the Sentencing Commission to do that which is highly predictable, which they will do, and that is, they are not going to take the action. I think the impetus for the legislation is in fact their failure to act and we are now telling them what they have to do.

His amendment in fact kills this bill, and I agree with the chairman of the Subcommittee on Crime and Criminal Justice that we must vote down the Watt amendment.

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

Mr. Chairman, let me begin by first thanking the gentleman from North Carolina for raising so many important constitutional and civil rights ques-

tions in this particular bill. I know a number of us thought this legislation would move through the course of this evening very quickly and a number of issues have been raised.

I must say that the gentleman from North Carolina raises some extremely important points, and this particular amendment unfortunately I know will not get the attention from Members that it deserves, but it should. This is an amendment that says we have a process, let us follow it.

Too often these days we find that the public, particular constituencies, particular communities, are not really pleased with the American process, whether it is judicial or legislative process. We can say the same thing about our political process. People are in many cases fed up. We can talk about certain high-profile jury verdicts that have come down, where people have said perhaps we should totally undo the jury process.

But we have a process and fortunately we have a Constitution that says we have to stick to a process. The Congress quite some time ago said we need a process to make sure we legislate appropriately when it comes to criminal matters. We have to make sure that people who are committing crimes are swiftly punished and appropriately punished for what they do.

We set up a Commission. That Commission was free of the politics that occurs day in and day out in this Chamber. We said, "We will charge you to tell us what you think we should do on these particular issues that we bring to your attention."

That is what we have been doing, is bringing these issues to their attention, directing them to take a look at certain things and get back to us. We have every right, as the gentleman from Florida has said, to disagree with the Commission and do something differently. That is what we have before us in this case with this bill.

The Congress, or a majority of Members, I suspect, in this Congress object to what the Commission has done. Does that mean it is right? Well, chances are what we are going to see happen is passage of this bill, and then we are going to have to revisit this in a few years because we are going to find that much of this is unworkable. Why? Because right now I think people are looking at November 1996, not May 7, 1996.

We charged a particular set of experts to tell us how best to conduct ourselves when legislating on issues of criminal law violations and we are telling them, "You've done your work, we set a course for you, but we wish to ignore it." To me, that is the worst type of legislating, because what are we saying to folks is, "Give us something that we can show folks, that we can hold up and say we've had something to look at," but then we just disregard it.

So we are acting like the experts, and I suspect most of the people who are going to push their button pretty soon

on this bill will not even have heard the debate that is taking place on this floor, but that is where we have gone. We are now at the point of telling the Commission, you have done your work, and I have not even heard anybody say the work of the Commission was not good, but what we have decided to do is totally disregard it.

The Commission did take substantial measures, as it was requested to do so by this Congress two years ago, to see what we needed to do to make sure that people who committed crimes against the elderly and our young were severely and adequately punished, but we are going to ignore that right now because a majority of Members are going to vote to pass this bill. That is they way things are done these days, especially during an election year.

It is unfortunate, and it is most unfortunate when a Member is willing to bring this up, knowing full well that the chances of getting just a few votes or more than a few votes are unlikely. It is important at least because somewhere there will be a record that on May 7, 1996, somebody decided to speak up, have a rational voice and say this is not the way we conduct business, and certainly this is not the way the Constitution of the United States or the Founders of this country expected us to conduct ourselves in these hallowed Chambers.

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

Mr. Chairman, I believe this may be the last amendment to this measure. I would like to make a case that what we have done here, although it is outside the Sentencing Commission's responsibilities, it really has not been that bad.

Now, having said that, I would like to point out that the Sentencing Commission has not failed. The Sentencing Commission did what we asked it to do. As the chairman of the Subcommittee on Crime agreed with me earlier in the debate, the Sentencing Commission's work came back to this committee and was ratified.

I would argue that what we have done tonight is far less worse than many things that have happened on the criminal justice field, but that let us now repair the amendment that is on the floor, that is not a lot different from the controlling language in the Chrysler bill.

The Chrysler bill says the U.S. Sentencing Commission shall amend the Federal sentencing guidelines. The Watt amendment says the U.S. Sentencing Commission shall review the Federal sentencing guidelines to determine appropriate sentencing enhancement for crimes of violence committed against vulnerable persons.

In other words, all he does is take the work that we are about to report tonight and pass it back through the Sentencing Commission. Is that so bad? What is wrong with that? We now have a work product that can now go

back to the Sentencing Commission. Guess what? It has got to come back to us, anyway. Nothing that the Sentencing Commission can do has any viability till it has passed through the House of Representatives.

I argue that much of the work tonight, I believe, will pass muster with the Sentencing Commission, and so I fail to see any great harm done in connection with this amendment.

Mr. Chairman, I yield to the gentleman from North Carolina [Mr. WATT], the author of the amendment.

Mr. WATT of North Carolina. I thank the gentleman for yielding, because he has made the very point I have been trying to make. We really are not opposing enhancements of sentences for people who commit crimes against vulnerable people. I do not think there is anybody who really opposes that, and certainly not the Sentencing Commission opposes that.

What we are talking about is public policy and how we set it. I think it is appropriate to read the last few lines of the letter from the Sentencing Commission to us and remind ourselves and let it resonate as we try to close this debate.

This is what they say. It says,

The Commission was designed to take the politics out of sentencing policy and to bring research and analysis to bear on sentencing policy. This bill sets a bad precedent for the Congress with respect to the Commission. There are other ways for Congress to speak on sentencing policy while still maintaining the integrity of sentencing reform as embodied by the Sentencing Reform Act.

That is it.

Mr. CONYERS. I thank the gentleman. Let me ask the gentleman from Michigan [Mr. CHRYSLER], the author of the measure, that were this amendment to prevail, namely, that the Commission shall review our collective works tonight as opposed to us directing the Sentencing Commission to amend the guidelines, would that work an irreparable injury on the objectives that the gentleman has worked so hard to bring to the floor?

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

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

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

Mr. CHRYSLER. Mr. Chairman to answer the gentleman's question, yes, it would. It would gut the bill.

Mr. CONYERS. In what respect, sir? It would not change a line in the bill. It would take the bill, assuming that it is passed, send it to the commission, and guess what? Anything that the commission does that we do not approve of, guess what we can do? Change it. So for that reason I suggest that it would not do any harm at all to the gentleman's work here tonight and the work that others have done to add on to it.

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

Mr. Chairman, I wanted to comment on the present legislation as we have it before the Chair, and I noted earlier the rising concern, not only on the sense of violent crimes but the fact that it results in the murder of our children. I have noted previously that the FBI cited generic statistics that said that children under the age of 18 accounted for 11 percent of all murder victims in the United States in 1994, and between 1976 and 1994 an estimated 37,000 children were murdered. Half of all murders in 1994 were committed with a handgun and about 7 in 10 victims age 15 to 17 were killed with a handgun.

In my community in Houston and surrounding, we have certainly had our share of children being murdered, one very heinous crime where the individual who murdered that child happened to be a neighbor.

But I think the important point is the ability of law enforcement to track down the offenders of this particular crime, whether it is a sex offense, or a sex offense that results in murder, or a murder of a child. I note that the legislation before us does not include the ability for the FBI to maintain a separate database of information on child sex offenders, and one that I would like to raise through legislation, a separate database on child murderers.

It is difficult in our local jurisdictions, when we find individuals who have a propensity for these acts, to find out that we have no basis of tracking them from one State to the next or from one incident to the next. I would like to work on legislation to address these particular data base gathering efforts by the FBI.

□ 2100

If I might, I would like to inquire of the chairman of the committee to raise this issue of concern about our FBI gathering data. We do realize they have been an important and useful tool in helping local communities in incidents like this. I would offer to say that if we could raise this issue before our Subcommittee on Crime or find a way for this legislation to be presented through a hearing process, and then, of course, to the floor, I think we are certainly missing an important element by not providing or allowing for the FBI to maintain or to enhance the keeping of a separate data base, one, on child sex offenders, but then on child murderers.

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

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, John Walsh, the father of Adam Walsh, one of the more famous victims in sad cases in this Nation involving a child, has testified before our subcommittee that we do need to enhance these data bases that the FBI has, and certainly this chairman is willing to look into

that, is currently examining that issue, and perhaps there will be either a hearing opportunity or legislative opportunity later this year.

I would be delighted to have the gentlewoman work with me and the subcommittee staff to accomplish what we can in this session of Congress along these lines.

Ms. JACKSON-LEE of Texas. Mr. Chairman, reclaiming my time, I thank the gentleman for his input on that. I would simply say just in the name of a 4-year-old, Monique Miller, in my community, who lost her life both by being sexually assaulted and then brutally attacked resulting in her very tragic and violent death, that I think it would be extremely helpful that we proceed through hearings as well as legislation to ensure that we have labeled those individuals who are sex offenders and child murderers.

Mr. Chairman, I rise today in support of H.R. 2974, the Crimes Against Children and Elderly Persons Increased Punishment Act, which would provide enhanced penalties for violent crimes committed against children, the elderly and other vulnerable individuals.

Unfortunately as we all know, the most vulnerable in our society are often in the most danger of abuse. Strengthened penalties for criminals who prey on the vulnerable will send a clear message that crimes against children and the elderly will not be tolerated.

According to the Bureau of Justice Statistics and the FBI, children under the age of 18 accounted for 11 percent of all murder victims in the United States in 1994. Between 1976 and 1994 an estimated 37,000 children were murdered. And half of all murders in 1994 were committed with a handgun; about 7 in 10 victims aged 15 to 17 were killed with a handgun. I will be offering legislation that will help local law enforcement in preventing child murders and sexual assaults by requiring the FBI to keep separate and distinct data on child sex offenders and child murderers nationwide.

And a National Victim Center survey estimated that 61 percent of rape victims are less than 18 years of age, 29 percent are less than 11. A recent U.S. Department of Justice study of 11 jurisdictions and the District of Columbia reported that 10,000 women under the age of 18 were raped in 1992 in these jurisdictions. At least 3,800 were children under the age of 12.

Similarly, according to the U.S. Department of Justice, in 1992, persons 65 or older experienced about 2.1 million criminal victimizations. Furthermore, injured elderly victims of violent crime are more likely than younger victims to suffer a serious injury. Violent offenders injure about a third of all victims. Among violent crime victims age 65 or older, 9 percent suffer serious injuries like broken bones and loss of consciousness.

Elderly victims of violent crime are almost twice as likely as younger victims to be raped, robbed, or assaulted at or near their home. Half of the elderly victims of violence are victimized at or near their home. Public opinion surveys conducted during the last 20 years among national samples of persons age 50 or older consistently show that about half of those persons feel afraid to walk alone at night in their own neighborhood.

Clearly, we must do more to protect our children and senior citizens. H.R. 2974 is an

important step in deterring the victimization of children, senior citizens and vulnerable individuals in our communities and putting an end to senseless violence across the country. I urge my colleagues to support this legislation.

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. WATT of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 41, noes 370, not voting 22, as follows:

[Roll No. 147]

AYES—41

Barrett (WI)	Fields (LA)	Rohrabacher
Becerra	Flake	Roybal-Allard
Bishop	Hastings (FL)	Rush
Campbell	Hilliard	Scarborough
Clay	Jackson (IL)	Scott
Clayton	Jefferson	Serrano
Clyburn	Lewis (GA)	Stokes
Collins (MI)	McDermott	Thompson
Conyers	Meek	Towns
Coyne	Millender-	Velazquez
Cummings	McDonald	Waters
Dellums	Payne (NJ)	Watt (NC)
Dixon	Pelosi	Williams
Fattah	Rangel	Wynn

NOES—370

Abercrombie	Chrysler	Filner
Ackerman	Clement	Flanagan
Allard	Clinger	Foley
Andrews	Coble	Forbes
Archer	Coburn	Fox
Armey	Coleman	Frank (MA)
Bachus	Collins (GA)	Franks (CT)
Baesler	Collins (IL)	Franks (NJ)
Baker (CA)	Combust	Frelinghuysen
Baker (LA)	Condit	Frisa
Baldacci	Cooley	Frost
Ballenger	Costello	Funderburk
Barcia	Cox	Furse
Barr	Cramer	Gallegly
Barrett (NE)	Crane	Ganske
Bartlett	Crapo	Gejdenson
Barton	Cremeans	Gekas
Bass	Cubin	Gephardt
Bateman	Cunningham	Geren
Bentsen	Danner	Gilchrest
Bereuter	Davis	Gillmor
Berman	de la Garza	Gilman
Bevill	Deal	Gonzalez
Bilbray	DeFazio	Goodlatte
Bilirakis	DeLauro	Goodling
Bliley	DeLay	Gordon
Blute	Deutsch	Goss
Boehrlert	Diaz-Balart	Graham
Bonior	Dickey	Green (TX)
Bono	Dicks	Greene (UT)
Borski	Dingell	Greenwood
Boucher	Doggett	Gutierrez
Brewster	Dooley	Gutknecht
Browder	Doolittle	Hall (OH)
Brown (FL)	Dornan	Hall (TX)
Brown (OH)	Doyle	Hamilton
Brownback	Dreier	Hancock
Bryant (TN)	Duncan	Hansen
Bryant (TX)	Dunn	Hastert
Bunn	Durbin	Hastings (WA)
Bunning	Edwards	Hayworth
Burr	Ehlers	Hefley
Burton	Ehrlich	Hefner
Buyer	Emerson	Heineman
Callahan	Engel	Heger
Calvert	English	Hilleary
Camp	Ensign	Hinchesy
Canady	Eshoo	Hobson
Cardin	Evans	Hoekstra
Castle	Everett	Hoke
Chabot	Ewing	Holden
Chambliss	Farr	Horn
Chapman	Fawell	Hostettler
Chenoweth	Fazio	Houghton
Christensen	Fields (TX)	Hoyer

Hunter	McNulty	Schaefer
Hutchinson	Meehan	Schiff
Hyde	Menendez	Schroeder
Inglis	Metcalf	Schumer
Jackson-Lee	Meyers	Seastrand
(TX)	Mica	Sensenbrenner
Jacobs	Miller (CA)	Shadegg
Johnson (CT)	Miller (FL)	Shaw
Johnson (SD)	Minge	Shays
Johnson, E.B.	Mink	Shuster
Johnson, Sam	Moakley	Sisisky
Johnston	Montgomery	Skaggs
Jones	Moorhead	Skeen
Kanjorski	Morella	Skelton
Kaptur	Murtha	Slaughter
Kasich	Myers	Smith (MI)
Kelly	Myrick	Smith (NJ)
Kennedy (MA)	Nadler	Smith (TX)
Kennedy (RI)	Neal	Smith (WA)
Kennelly	Nethercutt	Solomon
Kildee	Neumann	Spence
Kim	Ney	Spratt
King	Norwood	Stearns
Kingston	Nussle	Stenholm
Klecicka	Oberstar	Stockman
Klink	Obey	Stump
Klug	Olver	Stupak
Knollenberg	Ortiz	Talent
Kolbe	Orton	Tanner
LaFalce	Oxley	Tate
LaHood	Packard	Tauzin
Lantos	Pallone	Taylor (MS)
Largent	Parker	Taylor (NC)
Latham	Pastor	Tejeda
LaTourette	Paxon	Thomas
Laughlin	Payne (VA)	Thornberry
Lazio	Peterson (FL)	Thornton
Lazio	Peterson (MN)	Thurman
Leach	Petri	Tiahrt
Levin	Pickett	Torkildsen
Lewis (CA)	Pombo	Torres
Lewis (KY)	Pomeroy	Toricelli
Lightfoot	Porter	Traficant
Lincoln	Portman	Upton
Linder	Poshard	Vento
Lipinski	Pryce	Volkmer
Livingston	Quillen	Vucanovich
LoBiondo	Quinn	Walker
Lofgren	Radanovich	Walsh
Longley	Rahall	Wamp
Lowe	Ramstad	Ward
Lucas	Reed	Watts (OK)
Luther	Regula	Waxman
Maloney	Richardson	Weldon (FL)
Manton	Riggs	Weldon (PA)
Manzullo	Rivers	Weller
Markey	Roemer	White
Martinez	Rogers	Whitfield
Martini	Ros-Lehtinen	Wicker
Mascara	Rose	Wilson
Matsui	Roth	Wise
McCarthy	Roukema	Wolf
McCollum	Royce	Woolsey
McCree	Sabo	Yates
McHale	Salmon	Young (AK)
McHugh	Sanders	Young (FL)
McInnis	Sanford	Zeliff
McIntosh	Sawyer	Zimmer
McKeon	Saxton	
McKinney		

NOT VOTING—22

Beilenson	Gunderson	Owens
Boehner	Harman	Roberts
Bonilla	Hayes	Souder
Brown (CA)	Istook	Stark
Foglietta	McDade	Studds
Ford	Molinari	Visclosky
Fowler	Mollohan	
Gibbons	Moran	

□ 2123

Messrs. GUTKNECHT, BOUCHER, and PORTER, Ms. BROWN of Florida, and Ms. EDDIE BERNICE JOHNSON of Texas changed their vote from "aye" to "no."

Messrs. FATTAH, CAMPBELL, and TOWNS 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 further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HOBSON) having assumed the chair, Mr. LATOURETTE, 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. 2974), to amend the Violent Crime Control and Law Enforcement Act of 1994 to provide enhanced penalties for crimes against elderly and child victims, pursuant to House Resolution 421, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 414, noes 4, not voting 15, as follows:

[Roll No. 148]

AYES—414

Abercrombie	Boehrlert	Chapman
Ackerman	Boehner	Chenoweth
Allard	Bonilla	Christensen
Andrews	Bonior	Chrysler
Archer	Bono	Clay
Armey	Borski	Clayton
Bachus	Boucher	Clement
Baesler	Brewster	Clinger
Baker (CA)	Browder	Clyburn
Baker (LA)	Brown (CA)	Coble
Baldacci	Brown (FL)	Coburn
Ballenger	Brown (OH)	Coleman
Barcia	Brownback	Collins (GA)
Barr	Bryant (TN)	Collins (IL)
Barrett (NE)	Bryant (TX)	Collins (MI)
Barrett (WI)	Bunn	Combust
Bartlett	Bunning	Condit
Barton	Burr	Conyers
Bass	Burton	Cooley
Bateman	Buyer	Costello
Bentsen	Callahan	Cox
Bereuter	Calvert	Coyne
Berman	Camp	Cramer
Bevill	Campbell	Crane
Bilbray	Canady	Crapo
Bilirakis	Cardin	Cremeans
Bishop	Castle	Cubin
Bliley	Chabot	Cummings
Blute	Chambliss	Cunningham

Danner	Hoyer	Neumann
Davis	Hunter	Ney
de la Garza	Hutchinson	Norwood
Deal	Hyde	Nussle
DeFazio	Inglis	Oberstar
DeLauro	Istook	Obey
DeLay	Johnson (IL)	Olver
Dellums	Jackson-Lee	Ortiz
Deutsch	(TX)	Orton
Diaz-Balart	Jacobs	Oxley
Dickey	Jefferson	Packard
Dicks	Johnson (CT)	Pallone
Dingell	Johnson (SD)	Parker
Dixon	Johnson, E. B.	Pastor
Doggett	Johnson, Sam	Paxon
Dooley	Johnston	Payne (NJ)
Doolittle	Jones	Payne (VA)
Dornan	Kanjorski	Pelosi
Doyle	Kaptur	Peterson (FL)
Dreier	Kasich	Peterson (MN)
Duncan	Kelly	Petri
Dunn	Kennedy (MA)	Pickett
Durbin	Kennedy (RI)	Pombo
Edwards	Kennelly	Pomeroy
Ehlers	Kildee	Porter
Ehrlich	Kim	Portman
Emerson	King	Poshard
Engel	Kingston	Pryce
English	Klecza	Quillen
Ensign	Klink	Quinn
Eshoo	Klug	Radanovich
Evans	Knollenberg	Rahall
Everett	Kolbe	Ramstad
Ewing	LaFalce	Rangel
Farr	LaHood	Reed
Fattah	Lantos	Regula
Fawell	Largent	Richardson
Fazio	Latham	Riggs
Fields (LA)	LaTourrette	Rivers
Fields (TX)	Laughlin	Roberts
Filner	Lazio	Roemer
Flake	Leach	Rogers
Flanagan	Levin	Rohrabacher
Foglietta	Lewis (CA)	Ros-Lehtinen
Foley	Lewis (GA)	Rose
Forbes	Lewis (KY)	Roth
Fowler	Lightfoot	Roukema
Fox	Lincoln	Roybal-Allard
Frank (MA)	Linder	Royce
Franks (CT)	Lipinski	Rush
Franks (NJ)	Livingston	Sabo
Frelinghuysen	LoBiondo	Salmon
Frisa	Lofgren	Sanders
Frost	Longley	Sanford
Funderburk	Lowey	Sawyer
Furse	Lucas	Saxton
Galleghy	Luther	Scarborough
Ganske	Maloney	Schaefer
Gejdenson	Manton	Schiff
Gekas	Manzullo	Schroeder
Gephardt	Markey	Schumer
Geren	Martinez	Seastrand
Gilchrest	Martini	Sensenbrenner
Gillmor	Mascara	Serrano
Gilman	Matsui	Shadegg
Gonzalez	McCarthy	Shaw
Goodlatte	McCollum	Shays
Goodling	McCrery	Shuster
Gordon	McDermott	Sisisky
Goss	McHale	Skaggs
Graham	McHugh	Skeen
Green (TX)	McInnis	Skelton
Greene (UT)	McIntosh	Slaughter
Greenwood	McKeon	Smith (MI)
Gutierrez	McKinney	Smith (NJ)
Gutknecht	McNulty	Smith (TX)
Hall (OH)	Meehan	Smith (WA)
Hall (TX)	Meek	Solomon
Hamilton	Menendez	Spence
Hancock	Metcalf	Spratt
Hansen	Meyers	Stearns
Hastert	Mica	Stenholm
Hastings (FL)	Millender-	Stockman
Hastings (WA)	McDonald	Stokes
Hayworth	Miller (CA)	Stump
Hefley	Miller (FL)	Stupak
Hefner	Minge	Talent
Heineman	Mink	Tanner
Herger	Moakley	Tate
Hilleary	Montgomery	Tauzin
Hilliard	Moorhead	Taylor (MS)
Hinchee	Moran	Taylor (NC)
Hobson	Morella	Tejeda
Hoekstra	Murtha	Thomas
Hoke	Myers	Thompson
Holden	Myrick	Thornberry
Horn	Nadler	Thornton
Hostettler	Neal	Thurman
Houghton	Nethercutt	Tiahrt

Torkildsen	Walsh	Williams
Torres	Wamp	Wilson
Torrice	Ward	Wise
Towns	Watts (OK)	Wolf
Trafficant	Waxman	Woolsey
Upton	Weldon (FL)	Wynn
Velazquez	Weldon (PA)	Young (AK)
Vento	Weller	Young (FL)
Volkmer	White	Zeliff
Vucanovich	Whitfield	Zimmer
Walker	Wicker	

NOES—4

Becerra	Waters
Scott	Watt (NC)

NOT VOTING—15

Beilenson	Hayes	Souder
Ford	McDade	Stark
Gibbons	Molinari	Studds
Gunderson	Mollohan	Visclosky
Harman	Owens	Yates

□ 2143

Mr. JOHNSTON of Florida changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN EN-GROSSMENT OF H.R. 2974, CRIMES AGAINST CHILDREN AND ELDERLY PERSONS INCREASED PUNISHMENT ACT

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2974, the Clerk be instructed to correct cross references and section designations and to make any other clerical corrections that may be necessary.

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

There was no objection.

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. 2974.

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

There was no objection.

POSTPONING VOTES ON AMENDMENTS DURING CONSIDERATION OF H.R. 3120, REGARDING WITNESS RETALIATION, WITNESS TAMPERING, AND JURY TAMPERING

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 3120, pursuant to House Resolution 422, the Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment and that the Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on

any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall be not less than 15 minutes.

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

There was no objection.

□ 2145

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2406, UNITED STATES HOUSING ACT OF 1996.

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104-564) on the resolution (H. Res. 426) providing for consideration of the bill (H.R. 2406) to repeal the United States Housing Act of 1937, deregulate the public housing program and the program for rental housing assistance for low-income families and increase community control over such programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3322, OMNIBUS CIVILIAN SCIENCE AUTHORIZATION ACT OF 1996

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104-565) on the resolution (H. Res. 427) providing for consideration of the bill (H.R. 3322) to authorize appropriations for fiscal year 1997 for civilian science activities of the Federal Government, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3286, ADOPTION PROMOTION AND STABILITY ACT OF 1996

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104-566) on the resolution (H. Res. 428) providing for consideration of the bill (H.R. 3286) to help families defray adoption costs, and to promote the adoption of minority children, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT OF LAST VOTE OF THE DAY

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

Mr. MCCOLLUM. Mr. Speaker, I asked to speak for 1 minute so I can advise Members that, as a result of what we have just done, the next vote will be the last vote of the evening. I simply want to use the 1 minute to advise the Members of this body that, contrary to