

I want to submit for the RECORD, just to have people reminded, the whole 14th amendment.

Mr. Speaker, I submit for the RECORD the whole 14th amendment.

#### AMENDMENT XIV<sup>1</sup>

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

#### Section 1 states:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Who are they talking about particularly, specifically? The 13th amendment that came before freed the slaves,

but the 14th amendment is talking specifically about slaves, or people who were just freed from slavery, and the 14th amendment is there primarily to deal with the descendants of slaves.

To argue that it is there to promote a colorblind America is to distort the Constitution, to throw out any concern about what the Congress meant when they wrote this, what the States meant when they drafted it. We never do that on any other laws. We are always looking for the intent of the Framers, what the law says. All that is important. Why all of a sudden is it not important that the 14th amendment was drafted, written, ratified in response to correcting the ills of slavery, establishing the fact that these people who have just been set free shall also have equal right, equal protection under the law, these people are the people who were slaves and their descendants.

Section 2, this is in the same 14th amendment. If you want to challenge my contention that the 14th amendment is about slavery and correcting the ills of slavery, take a look in section 2, section 3 and section 4. Take a look at what they say. They are talking about situations which are related to correcting the upheaval, the situation that resulted as a result of rebellion against the United States.

In Section 2, I will not read it all, they state: "But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being 21 years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number" except in rebellion, participation in rebellion.

When the 14th amendment was written, they still had rebellion of the Confederacy on their mind. Section 2 makes it clear that they had that in their mind.

I will read all of section 3:

No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof.

They were concerned about the carryover and what was left over from the situation of the Civil War which was fought to end slavery.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing in-

surrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

The 14th amendment was not concerned and preoccupied with colorblind America. It was preoccupied with slavery, the Civil War, the aftermath of the Civil War, with dealing with people who had rebelled against the Federal Government. I offer this in the hope that somebody would go back and reread it, and especially the Supreme Court Justices who dwell on one section and refuse to accept the 14th amendment in its total context. It is distorted and twisted.

Kenneth Johnson did a great service when he pointed out that Justice Thomas is a part of this process of distorting the 14th amendment in what results in a racist series of decisions by the Court to roll back the clock and end various constructive kinds of things that have gone forth as a result of interpreting the 14th amendment in the proper way and understanding that the 14th amendment was the chance to deal with the problem of slavery in the proper context.

Mr. Speaker, I was going to also give an example of how a recent book by Daniel Gohagen called "Hitler's Willing Executioners" confirms the kind of situation I am talking about where if you fail to deal with underlying prejudices and hostilities in a society, it will blossom forth in a diseased way and sometimes it will get out of control. Certainly, if the central government and leaders of government condone it and encourage it, it gets out of control.

I would like to end my remarks by saying, by taking actions against the church burnings in a forceful way today, we have shown that the leaders of this central government will take firm action against such activities and elementary and rudimentary efforts have been taken to stamp out this disease. We need to go further and try to get to the root causes.

#### PROTECTING AMERICA'S PATENTS

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. ROHRBACHER] is recognized for 60 minutes.

Mr. ROHRBACHER. Mr. Speaker, I agree that we voted today to get to the root causes and to condemn the hatred that resulted in the warped mind that resulted in the burning of black churches in America, or synagogues or any other kind of churches, that this is not something we can tolerate in America.

But let us say the root causes of that type of bigotry are found in the same type of actions that try to limit people's right to speak because they disagree with you. They feel you have a

<sup>1</sup>The Fourteenth Amendment was ratified July 9, 1868.

right to prevent someone from speaking, whether at a high school graduation or a college graduation. Discourtesy is one step away from tyranny, and I have seen that throughout my life.

Clarence Thomas is a man of extraordinary courage, honor, and intelligence. He has stood up against a liberal political machine that he knew would try to destroy him personally rather than debate his ideas. It is tragic that this mean-spirited attack continues on Justice Thomas. He deserves the respect of America and at the very least he deserves to be treated courteously. Unfortunately, many liberals do not know what the meaning of courtesy is.

With that, let me say that one thing about America is that we have diverse values. This is something we rejoice in. We are a land of diversity. People cannot say it enough. This is a blessed land. Yes, it has faults, many faults. We will work together as Americans who love freedom to try to fix those faults.

That is the way it has been since our founding. We had a lot of faults back then. While I am grateful to our Founding Fathers and our founding mothers, I do not idealize them as being perfect. But in those days 200 years ago, they did have a dream and they did give us something to work with, and we have built a great Nation. They began that great Nation and expect us to try to perfect it.

Our Nation was founded not by Puritans alone—Puritans played a role in it—but also by malcontents, non-conformists, individualists, pathfinders, free thinkers, explorers, developers, people who were fiercely independent and lovers of freedom. Yes, there were also slaves that were brought here against their will, and we tried to correct that which was a major blot on America's soul.

They were an optimistic lot, those Americans of 100 and 200 years ago, firmly believing that with liberty and technology, ours would be a shining city on a hill, a beacon of hope for all mankind, where our problems and our faults would be corrected but where the common man, even then, through hard work and responsible behavior could raise a family in decency, and all would have an opportunity to improve themselves and build a Nation as they did.

This may sound like hyperbole but it is not hyperbole. Yes, we had faults, let us admit it. But the fact is we also had dreams. Those who founded our country were dreamers. They could see fields that would feed a hungry world and factories that would raise the standard of living of working people, and in times of great peril would become an arsenal for democracy to which freedom-loving people of the world could turn for salvation.

They knew America would succeed. The fundamentals were here. Freedom, guaranteed rights for all people. Yes, in the beginning it was not all people.

Today we have not totally reached that dream but that is what we are trying to do. Here was also this richness of diversity that would make America unique among the nations.

□ 2130

Our new country would not be held together by a common culture or common race or common religion. No, it would be a love of liberty that would unite us and a commitment to the principles of liberty and justice that would hold us together. One thing else gave them an unbridled positive view toward the future. They believed that technology would lift the standard of all human beings with the production of new wealth.

America would not be about dividing wealth, it would be about building, planting, engineering, and creating new wealth. After all, we were the most undeveloped country of the world at that time. Thomas Jefferson's home in Monticello is filled with his personal inventions, inventions of little technologies that he knew would help lift some of the burden right there on his own farm and, if emulated, lift the burden elsewhere throughout the country.

Ben Franklin was not just the grand old man of the American revolution. He was an internationally acclaimed technologist, having invented the pot-bellied stove, bifocals and having experimented with electricity. I do not even know if children these days, when they read their history books, know about Benjamin Franklin and his technological endeavors. They might not even know about Ben Franklin, for all I know.

Well, it is no coincidence that our Founding Fathers wrote into our Constitution a mandate for the establishment of a national Patent Office where any person could register an invention and would have a guaranteed property right to ownership of that innovation for a specific number of years. This was to ensure that inventors and investors would have an incentive to create the means to solve problems and to uplift the standard of living of our people. The guaranteed patent term works. America had the strongest patent laws in the world and our people reaped an unimaginable reward.

It was no mistake that it was here that Robert Fulton created the steamboat. How many people know that the steam engine was created long before Robert Fulton? In fact, in ancient Greece, there was a steam engine, but they did not believe the common person should have burdens lifted off of his shoulder, and in fact a steam engine had been put on a boat crossing the Rhine River much earlier but the boatmen gathered round and the boatman's guild forced that steam engine off the boat. But here Robert Fulton was able to put that steam engine on a boat and able to patent that concept and to create a piece of equipment that would change the world and uplift the standard of living of mankind.

What about Eli Whitney's cotton gin, which created enough clothing for people to wear and brought down the price of clothing, or Cyrus McCormick's reaper, or Thomas Edison's electric light bulb, or Sam Morse's telegraph, or Alexander Graham Bell's telephone, things that changed the world forever. Where were they created? Where were they invented? Right here in the United States.

In the late 1880's, it was seriously suggested, in fact, because our people had been so creative and created so much that the Patent Office be shut down because, "Everything that can be invented has been invented." At that very moment, two working men, brothers who owned a modest bicycle repair shop, were working on a machine that would lift mankind into the heavens.

Mr. Speaker, the Wright brothers demonstrated the indomitable spirit, what was hailed as exemplary, as the best of our country. Yet these two people were basically on their own. They had some investors. They were not men of education or wealth. They were ordinary working people who changed the lives of every person on this planet.

So why has it been America? Why was it that those two individuals were able to succeed? Certainly not our race because we have many different races and ethnic backgrounds. It certainly was not our religion. We have many religions. It is not our great universities. The Wright brothers never went to college, although I will have to admit our educational institutions certainly have helped this. The genius, the unparalleled inventiveness of our people can be found in the fact that our laws have protected inventors.

We have had the most stringent and all-encompassing patent laws and patent protection of any country of the world. Our laws have fostered private investment in innovation. The main-spring of America's progress can be found, above all else, in the guaranteed patent term and the honest enforcement of our laws, so that inventors knew their rights would be recognized and protected, investors knew they would be permitted to reap a reward for risking their money they invested in unproven technology.

One of the lesser known inventors in America, a man who had tremendous impact on the living of our people, was a man named Jan Matzeliger. He came from the humblest of beginnings and for years he was eating corn mush and just barely surviving. Because he was an American of Color, a black American, he suffered unforgivable discrimination, turned away even from churches where he sought to worship God. As he labored in a shoe company, strenuously stretching, cutting and stitching, he visualized a machine that would revolutionize production. With little education, he wrote and traced his idea for a complicated piece of equipment.

Living in poverty, he found a couple of old cigar boxes and strings to simulate a working model, and although he

had no status, no credentials and certainly no collateral, he caught the ear and the eye of two investors who bankrolled his venture for a hefty share of the profit. On March 20, 1883, a patent was issued by the U.S. Patent Office.

Within a few years, Matzeliger's "lasting machine" is what it is called, "lasting machine" was standard equipment for shoe manufacturing. The price of shoes began to drop as the average worker, instead of putting out one or two pairs an hour, could put out 50 pairs an hour. The price of shoes was cut by 50 percent. Untold millions of people benefited from Matzeliger's invention. For Matzeliger and his investors, they had the guaranteed patent term of 17 years in which to reap the rewards of an innovation that had uplifted ordinary people. Matzeliger lived a fruitful life and a full life. When he died, he left a considerable sum of money to the churches of his community. But it was stipulated in his will that none of the money should go to any church that turned him away because of the color of his skin.

America should have respected all the rights of all of its citizens, but even in that great time of discrimination, the rights of technological ownership, through the patent law, was so ingrained in our people that the patent rights of black Americans and people of color were protected. This commitment served our Nation well.

Now, I am not saying that all of the patent rights and all the property rights of black Americans were protected because they obviously were not. But obviously they were protected to the point where this black American was able to benefit greatly from his invention. America went on and basically the history of our country can be seen in the development of these new technologies. We went from a desolate frontier to a powerhouse of freedom and opportunity. There were those who see the fundamental changes in America, and they are trying to affect what we do in America and they believe in America. But sometimes people who are trying to affect the course of our history are not so up front about their goals for our country.

One of the things Bill Clinton did after becoming President, one of the first things he did was to send Bruce Lehman, his appointee, to head America's Patent Office to Japan. Now, is that not funny? Right after getting elected, he appoints someone to head the Patent Office and immediately sends him to Japan. There, Bruce Lehman, the new head of our Patent Office, concluded a hushed agreement to harmonize America's patent law to that of Japan's.

Now, we got almost nothing in exchange for the changes, for exchange for our changes. We got almost nothing in exchange in the sense that the Japanese law did not change almost anything. In fact, there were just a few anemic restrictions that were placed on Japanese corporate interferences

and that is about it. But we, on the other hand, changed and agreed to totally harmonize our patent law with that of Japan. Now that may sound really strange to the American people. It may sound really strange to our colleagues that someone goes overseas and makes an agreement to change the basic law of our land, which has been in place since the founding of our Constitution, and make it mirror that of a foreign country.

We did that in exchange for some little anemic change in the Japanese law. By the way, that promise may be very similar to Japan's promises to open their markets. Decades ago, Japan promised us they would open their markets, and basically they promised and they promised and they promised. Yet decades later, we still are having trouble getting our goods into the Japanese market. Perhaps this even weak little thing that they gave us in exchange for totally changing our patent law, maybe they will treat that the same way as nothing more than scribbling on a piece of paper. In the meantime, Bruce Lehman and multinational corporations, are doing their God-awful best to change our patent law, our fundamental patent law. They made the agreement with the Japanese to do it.

Mr. Speaker, now they are coming here with legislation to the Congress to fulfill their promises to change or law and make it like the Japanese law. Well, they tried to do it as quickly as possible and as quietly as possible. Step No. 1 was eliminating that guaranteed patent term of 17 years. This has been a right of Americans for American inventors and American investors for 134 years; before that, it was a guaranteed patent term of 14 years. But it was always a guaranteed patent term. No matter how long it took you to get your patent issued, once you had applied, if it took them 10 years to get it issued, you would still have 17 years of guaranteed protection.

Well, trying to keep this downgrading of American patent rights quiet while, instead of coming to Congress originally with the very first attack on the patent system, and that is the legislation of changing our patent laws, a provision was snuck into the implementing legislation for the General Agreement on Trade and Tariff. Now that may sound odd as well. But you see, if you put something in that implementing legislation for the GATT Agreement, Congress was only able to vote up or down on this one omnibus bill. No amendments were allowed. Thus, a Member of Congress would be forced to vote against the entire world trading system in order to vote against changing our patent law.

Many Members of Congress had no idea that they put this into there because this was total, the tactic was a total betrayal because we were told that the only things that would be put into the GATT implementation legislation was that which was required by GATT itself. It was a betrayal on our

citizens. The Members of Congress should understand that that indicates some foul play is going on. GATT again did not require the eliminating of the guaranteed patent term, so it should never have been put in there in the first place.

Well, I created a stir when I found out that in the GATT implementation legislation was this unnecessary or unrequired provision, something that would dramatically change our laws, and so that was 1½ years ago. I was promised that there would be a chance to correct this part of the implementing legislation, that eventually on the floor we would get our chance to change this.

Well, changes in the patent term of course are not easy to understand. Those people who are trying to fundamentally change how our Government has acted and what our fundamental laws are on the patent term know that this is a difficult issue for people to understand. They are relying on that ignorance, on that inability of Americans to focus on the intricacies of these kind of laws in order to do us in and to bring down America as the No. 1 leading economic power in the world.

Traditionally, when an American inventor or investor has filed for a patent, no matter how long it took, remember this was the traditional law, the Patent Office could take as long as they wanted, and many of the major patents take 5, 10, even 15 years. But once it was issued, there was a guaranteed patent term of 17 years to reap the benefits of new technology. Foreigners or anybody else would use that technology who have to pay royalties to those people who invented the new technologies. Again, it was their right to a guaranteed patent term of 17 years, and up until 1½ years ago, when that provision was snuck into GATT and the first move to harmonize our system with Japan's was put in place. During the time before, and this is before this change, when the patent was issued, everyone was secure in knowing they would have that 17 years of full benefit.

This system not only encouraged inventors but it encouraged investors. Thus private dollars by the billions have been allocated in our society for developing new technologies. Matzeliger's two investors knew that, no matter how long it took him to get that patent, that, once he got it, they all would benefit from this invention because they would have a guaranteed patent term of 17 years. We did not rely on Government bureaucracy. We relied on private investors. We did not rely on taxes by the Federal Government. We relief on innovation through the private sector because we gave people an incentive to invest by guaranteeing a patent term.

□ 2145

We relied on freedom and the profit motive. Well, the new system, which is

nothing more than the Japanese system superimposed on us, is much different, though again it is very hard to understand the significance of these changes and these differences.

Under the new code, and that is under the code that was put in under this GATT implementation legislation, the day that an inventor fights for a patent, that day 20 years later he has no more rights, he or she has no more rights to that patent and to that technology. Twenty years later, and the time is up.

If it takes 10 years, and, by the way, this is the system now in place that replaced the old system, if it takes 10 years for a patent to be issued because the bureaucracy is slow or outsiders are trying to slow down the process, in the past the investor still had the guaranteed patent term of 17 years, even if it took 10 years to issue. Under this new system, after 10 years one-half of the investor's patent term has been eaten up. He or she only has 10 years left. In other words, the clock is ticking against the inventor, against the innovator, and not against the bureaucracy.

Now, anyone who has studied the process knows that it is not unusual for breakthrough technologies, that is the innovations that change the world, these are the innovations that we as Americans always invented, that the innovations that produce the tens of billions of dollars of new wealth often take from 5, 10, and even 15 years for a patent to issue.

For example, the laser took 21 years before the patent was granted. That means under the new system, the inventor of the laser would have received no benefit, zero benefit, from his invention, and the investors in that project would have reaped no benefits. The microprocessor took 17 years. The microprocessor took 17 years. Under the old system, once it was issued that man had 17 years of patent term left. Under the new system, he would have 3 years left.

Polypropylene, the plastic they make in which they use to store milk and other containers, took 33 years before the inventor received the patent. He would have had absolutely no patent protection, and in fact would have probably died a dissolute person knowing that his invention had been stolen from him.

Now, what does this all mean when the clock is ticking against the inventor? It means the bureaucracy and special interests, not only domestic interests, but foreign interests as well, have leverage on the inventor. During negotiations, which are part of the patent process when someone is looking to get a patent granted, he has to go through these negotiations, the inventor, if the clock is ticking against him, he can be ground down, because he will or she is vulnerable. If a patent can be delayed and the time shortened, what does that mean? Well, it means all those royalties that were once going into the bank

account, if you can shorten the time period that the person actually holds that patent, because now you elongated the process and he only has that 20 years, and it is ticking against him, all those royalties that were going into the bank account of American inventors, because they have that 17 guaranteed years, now they do not have it. All that money that used to be flowing into their bank accounts is now rerouted into the account of huge foreign and domestic and multinational corporations.

To claim stolen royalties, of course, someone is eventually issued a patent. An individual must pay lawyers and legal specialists to go to court. Get the picture? The little American inventor going to Samsung or going to Mitsubishi or going to Sony and trying to beat them in court, especially in a Japanese court? The little guy in our country gets ground down. The Wright Brothers, had that law been in place, would be smashed by the Mitsubishis of the world.

Now, get that. The Wright Brothers, the equivalent of a Wright brother today, beaten down by Mitsubishi, and we end up in the years ahead with the Japanese building all of the major airplanes flown all around the world, and Japanese aircraft workers living at a higher standard of living, and our aerospace engineers living in poverty.

This system which our Patent Commissioner Bruce Lehman wants to emulate, he wants American law to be like the Japanese, has ill-served the Japanese people. It might have helped some of these big corporations and those people who run the corporations, but little, if any, innovation is born in Japan. Few, if any, inventions are started there. The Japanese are rightfully known as copiers and improvers, not inventors nor innovators. Their laws, which Bruce Lehman wants America to emulate, have permitted powerful business conglomerates to run rough-shod over their people. They have beaten down anyone who raises his or her head.

As far as technological development, in Japan an inventor who applies for a significant patent is immediately confronted with hostile interferences with the process. Pressures, official and unofficial, are applied to beat down the applicant so that by the time the patent is issued it is a hollow shell. The rewards are limited.

However, the rewards are great for some people in Japan. Yeah, the big guys, the giant corporations envelop the innovation and pay little, if anything, in royalties for the benefit they receive, or should we say steal. It is the difference between a society based on individual freedom versus collectivist egalitarianism. During the patent debate that we have been having here over the last year, Bruce Lehman, the head of the American Patent Office, constantly claimed the purpose of a strong patent law is to facilitate the dissemination of information to the so-

ciety as a whole. That is the ultimate in antifreedom, collectivist freedom, and has nothing to do with what our Founding Fathers had in mind.

In our country, the rights of the individual are paramount. These patent laws were meant to protect individuals' property rights over the rights of necessarily some huge interest group claiming to speak for the benefit of society as a whole.

We basically believe the individual has the right to own his or her prompt and especially if it is his or her own creation. That is what our Founding Fathers did when they put the Patent Office into our Constitution. Our respect for the property rights of the small farmer and the individual businessman is based on an understanding that by protecting the rights of the little guy, especially the property rights, all of us are going to benefit in the long run.

We believe it is through individual endeavors and personal responsibility that someone prospers, and when a population of individuals acts in that way, the society prospers. Lehman's approach treats individuals as secondary and in a collectivist whole, who if they insist on their rights for themselves, must and will be crushed.

Of course those trying to challenge our system will never admit this. Those trying to change the fundamental patent law will never believe that is what is really guiding them and that is their philosophical premise.

A change is coming, not as part of a major debate, basically a major debate in our whole democratic process. That is not the way the change in our society and patent rights for future technology is happening. Instead, it is happening by subterfuge, sneaking provisions into treaty legislation or an omnibus bill so that the evil that is taking place will be hard to understand and the actual changes will be obscured by all the rest of the things in the bill.

When one can force the advocates who are trying to press these patent changes, when we force them to engage, they claim that their goal is not to destroy America's traditional patent system. That is not what we are trying to do, they say, no. Instead, they are trying to solve a new problem that has been plaguing American business, and that is this problem that basically is enriching inventors. They say these inventors are being enriched, and these inventors are the ones manipulating and gaming the patent system so that by the time that a 17-year patent term is actually granted to someone, that they have actually more time to collect on the other side of their patent.

What they throw up as an excuse for changing the fundamentals and eliminating the right of Americans to a 17-year guaranteed patent term is something we call the submarine patent. Well, that is what they say. You people are gaming the system.

Certainly, that is true. A few, a very few self-serving inventors have been

able to elongate the process in which their patent application is being considered, thus putting off the issuing date, which means that the 17 years of patent protection which they are guaranteed end a little bit later rather than a little bit sooner. Of course, they are not getting the protection up front as well during that time period.

Some inventors enjoy royalty benefits then in the outer years, and if they had not gamed the system they would not be receiving the same benefits in the outer years of their 17-year guaranteed patent time, because their patent would have expired.

Well, making things worse, according to the other side, if the system is gamed for a number of years, let us say somebody is able to game the system for 10 years to prevent their patent from being issued. Other companies may come up with the same idea and those companies must now, because the other person has already applied for their patent, those other companies must pay royalties to the submarine patent holder when he comes to the surface and gets his patent. Because a patent application is secret until the patent is issued, the other companies did not even know they were going to have to pay royalties for using this innovation.

Thus, it is a ripoff and unfair. That is the argument on the other side.

Submarine patents, however, may or may not be the problem. Whatever. That some people game the process, well, that could be true, but that is no excuse for eliminating the guaranteed patent term of the American people. That is like saying if someone abuses the right of freedom of speech, that we can come in and destroy people's right for freedom of speech. Or someone abuses a religious freedom, we just eliminate the religious freedom guaranteed our people.

Let us remember this: The vast majority of all patent applicants, and I am talking about more than 99 percent, are doing everything in their power that they can possibly do to get their patent issued as soon as possible. They beg, they plead, please, issue the patent, because they will not receive any benefits until it is issued.

By the way, those people who are gaming the system to elongate the process, some new invention might come along that makes their invention obsolete and they are taking that chance. That is why almost all inventors, nearly all inventors, do everything they can to get the patent issued right away. As you know, this new innovation could leave them behind, whether they are submariners or people trying to get through the process and the bureaucracy is not issuing the patent.

A few submarine patents do represent a minuscule part of the system and have been a problem. So this problem can be dealt with by reforming the process, not by eliminating the guaranteed rights of all Americans.

My bill, in fact, H.R. 359, which will be on the floor as a substitute to the

Steal American Technologies Act, H.R. 3460, includes a provision to publish any application of an inventor who uses a continuance to intentionally delay the process. Over and over again, in the year and a half that I pushed on this issue, I have offered to put into law anything that would curb submarine patenting, which some people claim is a big problem and I am saying it is a minuscule problem, but I will do anything, put it in my bill, just so long as the change does not eliminate the guaranteed patent term.

Let us have it flagged. If someone is delaying it, let us try to change it by getting administrative change. Let us make sure that if someone is delaying the process, it goes to a special board to make sure they cannot delay it.

But the other side would have no compromise. They would not agree to any changes, except eliminate the guaranteed patent term. Why? Because that is what is in the Japanese law. In order to harmonize Japanese law, that is what we had to do.

So, what was their motive if they were not going to change the law? It might have been they wanted to harmonize our law with Japan, and submarine patent, well, maybe that was just something used as an excuse or perhaps they were really upset about it. But whatever it is, let us say this: That if someone tells you that they are concerned about your health and you are complaining to a doctor, you have trusted yourself to someone to make a medical decision for you, and have a hangnail on your foot, if that doctor insists on cutting your leg off in order to correct that problem with your hangnail, you better get a new doctor.

□ 2200

And that is what they are proposing here. We have a submarine patent problem that affects a minuscule number of people, so we are going to destroy the patent rights of all of the American people to a guaranteed patent right.

Well, that makes no sense. And if a doctor tried to tell me, well, no, I am really concerned; I am concerned about your health, and that is why we are going to cut the leg off. And when I say, well, do you not want to clip my toenail off rather than cut my whole leg off? No, no, we will cut the leg off, then you will not have any more hangnails. You should say wait a minute. Maybe you better think twice about that person's motives when he is trying to sell that kind of logic.

Let me note that this change we are talking about which they implemented in the GATT implementation legislation was the first crucial step in harmonizing our patent laws to those of Japan, and that is what I assume is the real goal of this legislation of H.R. 3460, which will be coming, and the real purpose of these people's activities.

Let us note this push for the harmonization with Japanese law started long before anyone ever heard of the term submarine patent. This has been

going on for 10 years now, and yet no one ever heard of submarine patents all those years ago. Those words were not even part of the patent lexicon when the attempt was made to dismantle America's patent system and harmonize it with Japan so long ago.

During the debate over patent law, Mr. LEHMAN has used the bogeyman of the submarine patents; yet when we have checked his figures, we found many of the so-called submarine patents he has spotlighted are not issued and published. Why? Yes, there are some patents that have not been published and not been issued for a long time. Do you know why? Almost all of them, not almost all but a huge portion of them are defense-related technologies.

Yes, the figures Mr. LEHMAN has given trying to say these are submarine patents, a lot have been not issued because they deal with sensitive defense technologies we did not want the world to know about. But, again, if it is a problem in terms of having people game the system and delaying the application, we can handle it with basically administrative reforms, rather than totally obliterating the system and eliminating the guaranteed patent term.

My bill, H.R. 359, would reinstate the guaranteed patent term of 17 years and facilitate any action against the manipulation of the system. Then, by mandating the publication of applications of people who are intentionally delaying the system, we could prevent them from delaying the system and having a submarine patent.

I am offering this as a substitute for H.R. 3460, which is a patent bill designed basically to complete the destruction of our current patent protection system. And basically this whole maneuver to destroy our patent system and replace it with the Japanese started, step one, with the GATT implementation legislation.

H.R. 3460 is step two, and better than anything else it demonstrates what is really going on. This one is easy to understand. It is understandable to the point that it unmasks the goals of the very powerful international as well as domestic forces that are at work trying to change our patent system.

H.R. 3460, which I call the Steal American Technologies Act, is officially called the Moorhead-Schroeder Patent Act, is a package that obscures the mind-boggling provisions that it claims by lumping it together with other things, but not enough to obscure the real facts.

One of the provisions introduced in this bill was introduced last year under a bill that was entitled the Patent Application Publications Act. Now this bill is part of 3460, the Patent Application Publication Act, that was really a title people could understand. Basically, it is early publication of patent applications. People can understand what those words mean. The title is

too self-explanatory, so that is why basically they changed it to the Moorhead-Schroeder Patent Act.

The provisions of this bill, now get into this, because everybody can understand what is going on when they hear this, this bill mandates that after 18 months every American patent application, that is every application of our innovators and our creators, when they apply, all this was always kept secret until the patent was issued in the past. Well, now it is mandated that every one of those applications, whether or not a patent has been issued, will be published for the world to see.

Every thief, every brigand, every pirate, every multinational corporation, every Asian copycat will be handed the details of every application to our patent office. Our newest and most creative ideas will be outlined for them, even before the patent is issued to the American inventor. It is an invitation for every thief in the world to steal American technology. Lines will form at copy machines and fax machines to get this information out to America's worst enemies and our fiercest competitors.

H.R. 3460 is entitled, as I say, the Moorhead-Schroeder Patent Act. Again, the provisions that we are talking about, it is almost mind-boggling that someone could, without shame, promote this on the floor of the House.

The authors of this bill suggest that we should not worry about if domestic, foreign, and multilateral corporations steal the new ideas. The patent applicant, once he gets the patent issued, which may be 5 or 10 years down the road, they can sue the new applicant, can sue the pirates once he has been issued that patent. The price tag on a simple infringement suit begins at one quarter of a million dollars.

Boy, that makes you feel good, does it not? The average American is now going to be up against Sony, Mitsubishi, Honda, you name it, every company in Japan, and you might even have to go to court in Japan or China or Thailand, or anywhere else, in order to fight them. And you have to pay your legal bills and they have got the profit from your technology already to use as the basis to beat you in court.

As this bill was being passed through the subcommittee, this bill already passed the subcommittee and the committee, I was in my office talking to the president of a medium-sized solar energy company in Ohio. And when I asked what would happen if this provision became law, he clenched his fist and angrily predicted that his Asian competitors would be manufacturing his new technologies before his patent was issued; that they would then use the profit from selling his new technology to defeat any court challenge and destroy his company in the process.

His overseas competitors would have the further advantage, get into this, of never having to pay for the research and development of that new product

in the first place. The Americans flip the bill, they use it, they develop the technology, profit from it, and they beat us in court with money that we have had to pay to develop the technology in the first place.

This is a nightmare and it faces every American small and medium-sized company. Anyone who cannot afford a stable of expensive lawyers is at the mercy of the worst thieves in the world. Of course, the big guys and the huge corporations are backing this change in our law because they want to globalize the world trading system, even if it means diminishing the rights of the American people.

Those big guys, they have the contacts overseas to make sure their products are not being stolen, and of course they have the money to spend on lawyers to deter such thievery. But for the little guys, it is open season.

Of course, we must do this. You have to remember, now, the reason we are doing this is to prevent the evil submarines, these evil submarine patenters who might elongate their patent by a couple of years. We have to make everybody in this country, we have to make them vulnerable to the worst thieves in the world because there are a few people who might want to elongate their patent protection for a few years by gaming the system in a submarine patent.

Yes, I am sure that is really what it is all about. This provision is another part of harmonizing our patent law with Japan, and that is what this is really all about. It is not about submarines. That is baloney.

Another provision of H.R. 3460 is, hold on to your hats because here is another provision, it is the abolition of the U.S. patent office. It is in our constitution and it has played a vital role in protecting the American people and the rights of the American people for all of these years. Yet now, H.R. 3460, the Steal American Technologies Act, will separate it from the Government, limiting congressional oversight.

Now it is part of our Government, so Congress has a right to investigate. It will limit congressional oversight. H.R. 3460, the Moorhead-Schroeder Act, will make the patent office into a Government corporation, sort of like the post office.

Now, I am in favor of privatization of services that our Government need not provide. Corporatization of a core function of Government, however, is a terrible idea. Something that the Government should do? Should we privatize all the judges in our country? Basically, we are trying to corporatize and take out of the Government's sphere the job of protecting the intellectual property rights of our people. This has been a core function of our Government since 1784.

Along with corporatization, by the way, what comes with that? That is the stripping of our patent examiners. They do not have any oversight by Congress, or very little, and then they

will strip these patent examiners of their civil service protection. This opens up all of these people to outside pressures and influences.

These are the individuals, these patent examiners, who work really hard. They are trying to make determinations, basically quasi-legal decisions, to determine who owns what. Well, taking away their civil service protection is like stripping the robes off a judge. It opens the door to corruption of the entire process. And if the patent office is corporatized, the head of the patent office, guess who it is, Bruce Lehman, Mr. Harmonizer of our laws with Japan, can make the changes that he and the board of directors want to make, with very limited congressional scrutiny, of course.

In the coming era, when technology and creativity will be more important than ever to determine America's future, we are, through H.R. 3460, decoupling the protection of patent rights from our Government, cutting it off from congressional oversight and leaving our people in the hands of an autonomous board of unelected officials. Who will be on that board? Unelected officials representing Lord knows what special interests will be represented on that board. Foreign and domestic special interests. These people will be making determinations as to who owns America's technology; basically determining our well-being in the future, which depends on America's leadership in technology.

The Steal American Technologies Act, H.R. 3460, which will be coming to a vote here in Congress next week, must be defeated. And my substitute, the Rohrabacher substitute, should take its place, which is basically the Patent Restoration Act. That is the choice our Members of Congress will have, H.R. 3460, the Moorhead-Schroeder Patent Bill or the Rohrabacher substitute.

One might ask why has a bill as obviously detrimental to America's interest gone so far as it has? First and foremost our big businesses have been bought off, or they have bought off, excuse me, on the idea of globalizing the world economy and harmonizing our patent rights as part of that deal of creating this new global economy, basically, even if our foreign competitors renege later.

We are going to make sure we make these deals now to create the global economy, even if our competitors renege on the deals they are making right now. So we are going to change the law now, the patent law and other things, to create the global marketplace, and that is going to be a sign of good faith so that these foreigners that are making deals with us for our global economy will not go back on their word.

Huge foreign and domestic and multinational corporations have been visiting individual Members and lobbying hard, spending loads of money, buying their influence peddlers around town.

And sometimes those influence peddlers look just like former Members of Congress, interestingly enough. And that is a big factor of why this thing is sliding through Congress.

Second, the Members of Congress hear from the biggest companies in their district, and it makes a difference if the biggest company in your district comes to you. You do not say, well, you do not represent the interest of the people as a whole; you do not even represent the interest of our employees. They do not say that. They listen to what that big boss in that company has to say.

These big company executives with the dreams of a global market dancing through their corporate heads basically have no, absolutely no commitment to the rights and the well-being of the American people because they are secondary to this great dream. If somebody has a dream to renew the world, watch out, brother. Whether it is a Communist or anybody else, if they are going to redo and make this world into a nirvana, watch out.

In this case they are going to create a new global marketplace, and in the process, what is going to happen? If in order to accomplish this they have to cut deals to bring down the rights and standard of living of the American people, so he is equal to other people's rights, well, they are willing to do it. We cannot allow that to happen.

Finally, there is another factor. Two Members of Congress pushing H.R. 3460, the Steal American Technologies Act, these two Members are retiring from Congress. Mr. MOORHEAD and Mrs. SCHROEDER are asking Members to support their bill because it is their swan song. CARLOS MOORHEAD has worked long and hard here and he is a good man. Mrs. SCHROEDER has worked long and hard, and I am sure many people agree with her basic philosophy. Well, they are asking others to basically, well, even if you do not agree with us, vote for it because it is our swan song. Do it as a favor to us, as a tribute to our many years of service.

□ 2215

That is true. They want people to vote in that way to do them a favor, voting for legislation that will determine America's economic competitiveness and the standard of living of our people for decades to come.

After the subcommittee markup of this bill, most of the Members I spoke to did not even know that H.R. 3460 mandates the publication of all patents issued or not, whether those patents have been issued or not after 18 months. They did not know that the bill obliterates the patent office and corporatizes it, stripping away any Civil Service protection from the patent examiners and limiting congressional oversight.

The people on the committees did not even know this. I talked to them and they were oblivious to it. They knew they were giving CARLOS MOORHEAD

and PAT SCHROEDER their swan song, the last big piece of legislation that they wanted. We cannot permit this unsavory tactic to succeed, as much as we all admire in our respective parties CARLOS MOORHEAD and PAT SCHROEDER, and we do admire them, they have worked long and hard here for the things they believe in, the votes on this issue are as vital to America's futures as anything I can—I have never seen anything that is more important than this coming through this body.

We cannot vote on something so important to America's future as a part of a tribute to someone in their last year of office. If they want a swan song, give them a commemorative coin, but do not destroy America's technological advantage. The swan song argument is nothing less than no argument at all. They have not been arguing at all. They have been using the pressure of huge corporations who have no loyalty to the well-being of the American people and no loyalty to the values that we talk about overseas.

This battle will determine, this battle that we are in will determine if America remains the number one technological power in the world, and these huge corporations are in talking to every Member of Congress. The only argument that the authors of this are giving is, please pay us a tribute. They are going to, one way or the other, Members are getting hammered on this. This is the ultimate, when we really look at it, the ultimate little guy versus big guy fight. Standing for the Rohrabacher substitute and a strong American patent system is a coalition that includes the NFIB, small business organizations and every inventors association in the country is supporting the Rohrabacher substitute.

Over 50 top research universities and colleges nationwide who rely on patent income to bolster their research programs are supporting my substitute, including Harvard, MIT, the University of Florida, LSU, Columbia, Northwestern, the University of Wisconsin. Also strongly supporting the Rohrabacher substitute for H.R. 3460 is Patent Office union, these men and women who struggle and work so hard to try to be diligent in their work who are going to find their entire civil service protection stripped from them.

On the other side is just about every big business organization you can imagine. With interlocking directorates and foreign ownership, no one can be sure how much foreign and multinational influence is being exerted on this issue. But it is considerable.

Who will win? It is up to the people. Members of Congress need to be personally contacted. H.R. 3460, the Moorhead-Schroeder Patent Act, which I call the Steal American Technologies Act, must be defeated and the Rohrabacher substitute put in its place. This vote could well come to the floor early next week.

Anyone who needs more information, by the way, interestingly enough, if

someone wants to read the bill in fact for themselves, they can. It is available on the Internet. The terrible details are there for the American people to see. If someone has got a home computer, they can get it on the Internet and take the time, if they want to take the time, to go and do this and to download the information and see it for themselves.

They actually, they can actually go to their internet computer and get the copies of the bills and try to decide for themselves. It is available at WWW dot House dot gov and then slash Rohrabacher. That is R-o-h-r-a-b-a-c-h-e-r. Here is the internet information again: www dot house dot gov slash Rohrabacher.

So this decision that we are about to make in this body will determine the well-being of our people, the standard of living of every American. It will determine the competitiveness of the United States of America and it will determine our future.

Is the United States going to be a shining city on the hill, a shining city of innovation and progress, sparkling there, or a backwater subservient to the dictates of a global elite? A land of free, prosperous people looking to the future, or a Nation looking back and wondering why and how we lost our edge in the world?

Together we can make democracy work. H.R. 3460, the Steal American Technologies Act, can be defeated and our rights to the best technology in the world and to make sure America is the technological leader in the world can be restored by the Rohrabacher substitute. It is now time for people to become part of the democratic process. Those people who are trying insidiously to change the law in a way that would, 10 years down the road, be a sneak attack on the well-being of our people, they are basically confident that they are going to win because they think this issue, the patent issue, that people are going to yawn or they will not be able to understand it or will not be able to understand just what is going on here. They are thinking this is going to slide through Congress because they have got these big corporate heads calling on Members of Congress.

Unless we take the power in our own hands and participate in the system, which is what our Founding Fathers wanted us to do, I believe that Thomas Jefferson today would be so proud that internet is being used to give people the actual wording of the bills that are being considered here on the floor of the House of Representatives. Thomas Jefferson, Benjamin Franklin, they would say, that is exactly the kind of society we had in mind because we knew America would not be perfect. The Founding Fathers knew there would be special interests working in our country, but they knew and they trusted in the free people of this country to get involved.

Let us make sure we do get involved. Let us make sure that Ben Franklin



and Thomas Jefferson, who are looking down on us today, will know that we have picked up the torch because we are, after all, the children of Thomas Jefferson. We will not give up our rights, and we will fight for this democratic process.

I would invite all of my colleagues to join me in this effort to ensure that the American people's right to a decent standard of living, to freedom beyond anywhere else in the world, that that right, those rights are protected.

COMMEMORATING THE 150TH ANNIVERSARY OF THE FIRST OFFICIALLY RECORDED BASEBALL GAME, HOBOKEN, NJ, JUNE 19, 1846

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Under a previous order of the House, the gentleman from New Jersey [Mr. MENENDEZ] is recognized for 60 minutes.

Mr. MENENDEZ. Mr. Speaker, for the purposes of the Chair as well as the staff here, I do not intend to take the hour. That is the good news. It should take only about 15 minutes, but they are important minutes.

Mr. Speaker, I rise not to speak about the weighty matters of state that we often get up here and speak about but a little bit about history. Tomorrow, Mr. Speaker, in Hoboken, NJ, which is in my congressional district, the city of Hoboken and its mayor, Anthony Russo, will celebrate the 150th anniversary of the first officially recorded game of baseball. Yes, I am talking about baseball, the national pastime.

On June 19, 1846, the first officially recorded baseball game was played on the Elysian Fields in Hoboken, NJ. Yes, Cooperstown, NY, has the National Baseball Hall of Fame, but history clearly makes Hoboken the birthplace of modern baseball. Through the courtesy of the National Baseball Hall of Fame and Museum and Frank Borsky of the Hoboken Development Agency, who compiled much of this information in 1976, I would like to highlight this memorable occasion by reading from various accounts of this immortal game.

The game pitted the New York Nine against the Knickerbockers. The Knickerbockers were the most renowned club of that time. The crowded urban conditions in Manhattan forced the clubs to take the ferry across the Hudson to play in Hoboken, then a well-to-do resort.

The scene was described by Seymour Church. He said: "A walk of about a mile and a half from the ferry up the Jersey shore of the Hudson River, along a road that skirted the river bank on one side and was hugged by trees and thickets on the other, brought one suddenly to an opening in the 'forest primeval.' This open spot was a level grass covered plain, some 200 yards across, and as deep—surrounded on three sides by the typical

eastern undergrowth and woods, and on the east by the Hudson. It was a perfect greensward for almost the year around."

The umpire was an American civil engineer named Alexander Cartwright, who many historians say invented baseball contrary to the proponents of Abner Doubleday and for good reason. Under Cartwright's direction, the baseball diamond was laid out. Cartwright's ordering of the game has not appreciably changed in the past 150 years. Prior to this game, there was a casual placement of bases, but not on the Cartwright's plans. Players were stationed at each base with only three outfielders, instead of the random hordes which had previously manned the baselines and the outfield. There were 9 men instead of 11 on a side. Cartwright recognized that most hits were between second and third base, so he placed the player in a new position called a shortstop. Teams batted in regular order with three outs in order to exchange sides batting. This is in contrast with cricket in which a side continues at bat until the entire team was out. Finally outs were made by throwing to bases instead of trying to hit the player with the ball.

Here are some of the rules that governed the first game in Hoboken:

In section 1 of these rules that were written out, it said the bases shall go from home to second 42 paces, from first to third, 42 paces equidistant.

The ball must be pitched, underhand, and not thrown, freehand, for the bat.

A ball knocked outside the range of first or third is foul.

Three balls being struck at and missed and the last one caught in a hand is out; and if not caught, is considered fair. And the striker is bound to run.

A player running the bases shall be out if the ball is in the hands of an adversary and the runner touched by it before he makes his base, it being understood, however, that in no instance, is the ball to be thrown at him.

These are just some of the rules, but what is interesting is that Cartwright laid out the game as we know it today, and he did so in Hoboken, NJ.

The pitcher stood 45 feet from the batter. The catcher stood back far enough to take the ball on a bounce. The umpire stood between the plate and the catcher but to the right and out of the way of the ball. The ball itself was 10 inches in circumference, weighing 6 ounces and had a rubber center.

In September 1845, a group of Cartwright's social acquaintances established a club called the Knickerbockers, the first organized baseball club. The challenge was issued to the New York Nine. At stake was a banquet at McCarty's Hotel near the Elysian Fields of Hoboken. Overconfident, the Knickerbockers did not practice and the team's best player, Cartwright himself, volunteered to umpire. As a matter of fact, baseball's first fine for

"cussing" was levied by Cartwright for 6 cents against a New York Nine player named Davis.

Despite crafting the rules, the Knickerbockers could not match the Nine pitcher with cricket experience who whipped pitches past the Knick batters.

Although it was a perfect day, the Knickerbockers took a drubbing. While beating the New York Nine in their fashion with their uniforms of blue pantaloons and white flannel shirts, mohair caps, and patent leather belts, the Knickerbockers failed to win the game, losing by a score of 23 to 1.

The final result of that game came in the box score, which was subsequently published and is in the New York Public Library.

One hundred years later, the city of Hoboken celebrated the centennial with a bronze marker erected by the New Jersey Commission on Historic Sites.

□ 2230

It reads:

On June 19, 1846, the first match game of baseball was played here on the Elysian Fields between the Knickerbockers and the New Yorkers. It is generally conceded that until this time the game was not seriously regarded.

That is the quote on the marker.

That game is seriously regarded today. The people of Hoboken are still proud that America's national pastime was played there, and the people of Hoboken still love the game and will cherish this anniversary, the 150th anniversary, by parades and award dinners that will be held tomorrow evening.

Now, Mr. Speaker, why do I come to the floor of the House to talk about an issue like this? This is more than just hometown pride. This is about a stake in history and about a game that is as American as apple pie, a game that brings families together whether at the stadium, around the TV set, or on the Little League field. It is about dreams, realized; some, broken. It is about a sense of community as cities from coast to coast cheer on their hometown boys. It is about tradition, a great American tradition, for no matter where in the world baseball is played, we know that it was made here in the United States.

I am proud to proclaim Hoboken, NJ, a city with a great tradition. A great city in the 13th Congressional District is the birthplace of baseball.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. WATERS (at the request of Mr. GEPHARDT), for today, on account of personal business.

Mrs. LINCOLN (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of medical reasons.

Mr. RAMSTAD (at the request of Mr. ARMEY), for today, on account of illness.