

# THE TRUTH ABOUT THE BENEFITS OF H.R. 400

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, several weeks ago I received a call from a man who identified himself as a frustrated small inventor. He then proceeded to give me a tongue-lashing about the patent bill, H.R. 400, claiming that it would put the little guy out of business.

I asked him what was his source of information. He referred to a talk show featuring a Congressman who said that. I asked the caller if he had read the bill. No. I asked him if he wanted to read the bill. Yes. I mailed a copy of the bill to him, and then about 10 days later he called me and apologized. He said, this is a good bill, not at all like I was told on the talk radio show.

Yesterday, Mr. Speaker, a woman came to me, a Member of this body who was scheduled to speak on behalf of the bill later this week. She said, I cannot do it. I said, why? Because I have received mail that says H.R. 400 is bad for the little guy. I said, were there any details spelled out? No, she said.

This is how she bases her opinion. This is how the caller based his opinion. Scare tactics are very effective. Scare tactics make a formidable opponent.

## NEIGHBOR HELPING NEIGHBOR

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, April 15 is the day notorious among Americans. We dread the tax deadline, despair over the amount of money we turn over to the Government and wonder how much benefit it will reap. Many citizens assume that, once they pay their taxes, the Government will take care of everything. History has proven this untrue.

What history proves is that this Nation is great because of a tradition of neighbor helping anybody or and community and faith-based institutions assisting others when they need help. This tradition allows people to take responsibility for themselves and their neighbors rather than abdicating this responsibility to the government.

I join the hundreds of thousands of others today in celebrating National Youth Service Day and the 10th anniversary of Youth as Resources. Gathering today in Indiana is a group of unique young people. The Coalition of Community Foundations for Youth has gathered teenagers from all walks of life and all ages, from the poorest to the wealthiest, who actively participate in community service and allows them to exchange ideas and discuss models for improving the quality of life in their own neighborhoods.

One such partnership is in my district, at the Wabash Valley Community Foundation in Terre Haute, IN. The Youth Grant Committee involves young people in evaluating projects for awards to other young people and in the process allows them to take responsibility for their future.

## INVITATION TO CONFERENCE ON ISSUES IMPORTANT TO UNITED STATES-MEXICO BORDER

(Mr. REYES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REYES. Mr. Speaker, I rise today to talk about an important event being held in Washington this week and to invite all my colleagues to attend. The United States-Mexico Chamber of Commerce and the University of Texas at El Paso are sponsoring a conference this week in Washington about issues that are important along the United States-Mexico border.

The border between our countries is almost 2,000 miles long. We have a common border, and we have common challenges to meet.

This conference will be held Wednesday and Thursday. It will address such issues as the economics of the border, environmental concerns of the border, transportation and infrastructure needs of the border, cultural aspects of the border and a status report on the impact of NAFTA on the United States-Mexico border.

I invite all my colleagues to a congressional reception from 6 to 8 p.m. on Wednesday, April 16 in B-369 Rayburn. I also invite all my colleagues to attend all the conference or parts of the conference. I also ask my colleagues to look for my Dear Colleague letter this afternoon.

## IN SUPPORT OF THE TWO-THIRDS TAX LIMITATION AMENDMENT

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I hold in my right hand a copy of the Constitution of the United States of America. When this document was ratified by the Original Thirteen Colonies in 1787, in article I, section 9, I want to read the following sentence: No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

What that meant was there could be no income tax in the original Constitution, but on February 3, 1913, the 16th amendment was passed to the Constitution that overrode that sentence that I just read. The 16th amendment says: The Congress shall have the power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States.

We need to pass the two-thirds tax limitation constitutional amendment on the floor of the House of Representatives this afternoon to put back into the Constitution not an absolute prohibition against leveling income taxes but at least a supermajority requirement that will take two-thirds of the House and the Senate before we raise taxes.

## TAX BURDEN ON SENIORS MUST BE LIFTED

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, today is tax day. I think most of us would agree that we are taxed too much. But do we really need to tax seniors like we do? I do not think so.

Sadly, that is precisely what happened with the Clinton 1993 budget package. Some might try to argue that that was a good package. They were wrong. They are still wrong. These folks in the administration have long pursued a tax and spend policy. Try telling seniors that their taxes on Social Security are fair and necessary.

I have introduced legislation to roll back this additional tax burden that was placed on seniors by the Clinton administration in 1993. It also includes indexation of capital gains and American dream savings accounts for young people who are trying to purchase their first home. I urge my colleagues who believe in tax relief, true tax relief for all Americans, to sponsor my bill which is budget neutral. It is H.R. 1266. It is entitled the Budget Neutral American Tax Relief Act.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PEASE). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 4 p.m. today.

## TAXPAYER BROWSING PROTECTION ACT

Mr. ARCHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1226) to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information, as amended.

The Clerk read as follows:

H.R. 1226

*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 "Taxpayer Browsing Protection Act".

## SEC. 2. PENALTY FOR UNAUTHORIZED INSPECTION OF TAX RETURNS OR TAX RETURN INFORMATION.

(a) IN GENERAL.—Part I of subchapter A of chapter 75 of the Internal Revenue Code of 1986 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7213 the following new section:

### "SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.

"(a) PROHIBITIONS.—

"(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for—

"(A) any officer or employee of the United States, or

"(B) any person described in section 6103(n) or an officer or employee of any such person, willfully to inspect, except as authorized in this title, any return or return information.

"(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2).

"(b) PENALTY.—

"(1) IN GENERAL.—Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding \$1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

"(2) FEDERAL OFFICERS OR EMPLOYEES.—An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

"(c) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'return', and 'return information' have the respective meanings given such terms by section 6103(b)."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 7213(a) of such Code is amended by inserting "(5)," after "(2), (4)."

(2) The table of sections of part I of subchapter A of chapter 75 of such Code is amended by inserting after the item relating to section 7213 the following new item:

"Sec. 7213A. Unauthorized inspection of returns or return information."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on and after the date of the enactment of this Act.

## SEC. 3. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OF RETURNS AND RETURN INFORMATION; NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.

(a) CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION.—Subsection (a) of section 7431 of the Internal Revenue Code of 1986 is amended—

(1) by striking "DISCLOSURE" in the headings for paragraphs (1) and (2) and inserting "INSPECTION OR DISCLOSURE", and

(2) by striking "discloses" in paragraphs (1) and (2) and inserting "inspects or discloses".

(b) NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.—Section 7431 of such Code is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE.—If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

"(1) paragraph (1) or (2) of section 7213(a),

"(2) section 7213A(a), or

"(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,

the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure."

(c) NO DAMAGES FOR INSPECTION REQUESTED BY TAXPAYER.—Subsection (b) of section 7431 of such Code is amended to read as follows:

"(b) EXCEPTIONS.—No liability shall arise under this section with respect to any inspection or disclosure—

"(1) which results from a good faith, but erroneous, interpretation of section 6103, or

"(2) which is requested by the taxpayer."

(d) CONFORMING AMENDMENTS.—

(1) Subsections (c)(1)(A), (c)(1)(B)(i), and (d) of section 7431 of such Code are each amended by inserting "inspection or" before "disclosure".

(2) Clause (ii) of section 7431(c)(1)(B) of such Code is amended by striking "willful disclosure or a disclosure" and inserting "willful inspection or disclosure or an inspection or disclosure".

(3) Subsection (f) of section 7431 of such Code, as redesignated by subsection (b), is amended to read as follows:

"(f) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'inspection', 'return', and 'return information' have the respective meanings given such terms by section 6103(b)."

(4) The section heading for section 7431 of such Code is amended by inserting "INSPECTION OR" before "DISCLOSURE".

(5) The Table of sections for subchapter B of chapter 76 of such Code is amended by inserting "inspection or" before "disclosure" in the item relating to section 7431.

(6) Paragraph (2) of section 7431(g) of such Code, as redesignated by subsection (b), is amended by striking "any use" and inserting "any inspection or use".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. ARCHER] and the gentleman from Pennsylvania [Mr. COYNE], each will control 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

### GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill, H.R. 1226.

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

There was no objection.

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

Mr. Speaker, today is tax day. As most of the country knows by now, I continue to do my own taxes. Like millions of other Americans who struggle to fill out their forms before tonight's midnight deadline, I keenly know how difficult, time-consuming and troubling it is to comply with our Tax Code. But once the forms are complete

and mailed in, you would think taxpayers could then look forward to a refund or, for some unfortunate souls, an audit.

But we have now learned that taxpayers have something else to fear: IRS agents, who snoop through people's personal, confidential tax records.

Mr. Speaker, this is a copy of form 1040. Taxpayer records are among society's most confidential and sensitive documents. They often describe how much alimony people pay, how much they spend on health care, and, of course, how much money they make. This information belongs to the taxpayers, not the Government. And taxpayers who suffer enough already should not have to worry about snooping Toms at the IRS who abuse their trust by looking up private tax information.

Yet the General Accounting Office tells us that there are more than 1,000 incidents that they know of in which IRS agents snooped into someone's files. That is why I am pleased that the House today, as a part of taxpayer protection week, will pass this bill that makes it a crime to snoop into taxpayer records.

This bill also adds an important privacy shield for taxpayers by requiring the IRS to notify taxpayers when criminal browsing activity is indicated. If someone's privacy has been violated by the Government, they have a right to know it, and they should be outraged.

I believe these two provisions will serve as a twin deterrent to protect the privacy of taxpayer information.

Mr. Speaker, I look forward to the time when we can protect taxpayers not only from the IRS but also from the current Tax Code which, after all, is the root cause of these problems. The current code is unfair, excessively complicated, overly intrusive, and antigrowth.

I believe we must pull the income tax out by its roots and throw it away so that it can never grow back. When we do, we will have made the tax system fairer, simpler, created more economic growth, and we will have gotten the IRS completely and totally out of the lives of every individual American.

Until that great day comes, we must do everything in our power to protect the rights of taxpayers. When it comes to fighting those who browse and snoop into personal taxpayer records, there ought to be a law, and now there will be.

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

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

Mr. Speaker, I rise in support of H.R. 1226, the Taxpayer Browsing Protection Act. This bill was introduced on a bipartisan basis in April 1997, and I want to thank my Democratic and Republican colleagues on the Committee on Ways and Means for their support of H.R. 1226 and their very quick action.

As expected, H.R. 1226 was approved unanimously by the committee with

one amendment on April 9, 1997. The bill before us today is a good example of the Committee on Ways and Means working together to improve and support the Internal Revenue Service. Also H.R. 1226 has the strong support of the IRS and the Treasury Department.

Enactment of this bill will provide needed statutory support for the IRS Commissioner's current zero tolerance policy for browsing. I should mention that earlier this year IRS Commissioner Richardson contacted members of the Committee on House Oversight to renew her request for criminal sanctions in the tax code to deal with unauthorized inspection of an individual's tax information.

Legislation similar to H.R. 1226 had been introduced by Senator GLENN during the 104th Congress but was never acted upon at that time. I want to commend the gentlewoman from Connecticut [Mrs. JOHNSON] for her leadership on H.R. 1226 and the gentleman from Texas [Mr. ARCHER] and the committee ranking member, the gentleman from New York [Mr. RANGEL] for their support for this legislation. It is time that something be done. The public has the right to expect that its tax records will only be reviewed by those authorized to do so. Browsing is unacceptable, period. It must and it will stop.

In summary, H.R. 1226 would clarify in the Tax Code the criminal sanctions for unauthorized inspection of tax information and application of civil damages. First, violators would be subject to significant criminal sanctions and dismissal from the IRS in their employment. The offense that would be committed would be a misdemeanor, with a fine of up to \$1,000 and a prison term of up to 1 year, plus the cost of prosecution.

Second, the criminal sanctions would apply to IRS employees, IRS contractors, and other Federal and State employees having access to Federal tax information.

Third, tax information retained by the IRS on paper and electronically as well would be protected from unauthorized browsing.

And finally, the availability of civil damages for unauthorized inspection or disclosure would be expanded. The taxpayer would be notified when there has been a criminal indictment for illegal browsing or disclosure, and the taxpayer would be able to sue for civil damages in the same manner as under current law for an unauthorized disclosure, the greater of \$1,000 or actual punitive damages, plus costs.

□ 1230

It is important to note that the IRS employee would not be subject to criminal sanctions in the bill unless the unauthorized inspection was willful inspection.

Also, the bill would not provide civil damages in the case of an accidental or inadvertent inspection, such as making an error in typing into the computer a taxpayer's identification number.

H.R. 1226 should not be construed as an attack on the IRS. While there are a small number of IRS employees intent on violating the law, the vast majority of IRS employees are hard-working and committed public servants. IRS employees nationwide will benefit from this legislation, knowing that any browsers identified by the IRS will be fired from their jobs and prosecuted criminally.

Mr. Speaker, I urge passage of this important legislation and I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield 2½ minutes to the gentlewoman from the State of Washington, [Ms. DUNN] who has contributed a great deal toward the development of this bill today. In fact, an amendment that she offered in committee is included in the bill, and I congratulate her for all of her very, very good work.

Ms. DUNN. Mr. Speaker, I want to commend Chairman ARCHER for his leadership in bringing this timely issue of taxpayer privacy to the floor of the House today.

Throughout my tenure in the Congress I have heard from thousands of constituents who have described to me a myriad of problems they see within our system of taxation.

Granted, our Nation suffers under an unfair and incomprehensible Tax Code that takes too much of what we earn. Worse, some rogue members of the IRS, the organization responsible for the enforcement of the Tax Code, have a record of seeking to intimidate and to frighten honest hard working taxpayers. They damage the reputation of a huge majority of the honest people working at the agency. We must not tolerate a Tax Code that punishes families just as we should not tolerate an IRS agent who is eager to bully, harass, or snoop on a taxpayer.

An important element of the IRS Accountability Act that I have offered and of the bill on the floor today is the protection of taxpayer privacy. It is well-documented that certain agents have been able to snoop through confidential taxpayer information with no regard for individual rights of the honest and the law-abiding taxpayers.

Furthermore, recent reports shed additional light on the need for this legislation and the adoption of my amendment. According to the GAO, for fiscal year 1994 and 1995, over 1,500 instances occurred where IRS employees were accused of unlawful browsing. After accounting for firings, for disciplinary action, and for counseling, 33 percent of these cases were closed without action.

I am glad the Committee on Ways and Means adopted my amendment to require that the taxpayer be notified when an IRS agent is indicted or otherwise charged with unauthorized inspection.

The bottom line is that this provision addresses what I believe to be a matter of common decency.

My amendment also provides taxpayers a civil remedy in such unauthorized inspection or browsing cases.

The honest American family works too long and too hard to have to deal with an unfair and, on occasion, overly intrusive IRS and agents who trample on their rights.

The IRS deserves closer scrutiny when certain agents go beyond acceptable enforcement procedures and commit outright intimidation or when it is unable to use common sense as a yardstick.

This bill, the one we are considering on the floor today, will ensure that the powerful government agency, the IRS, will no longer scoff at the rights of well-intentioned and law-abiding taxpayers.

Mr. Speaker, I thank the chairman for his proposal of this legislation, and I urge my colleagues to support the adoption of this measure.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut, [Mrs. JOHNSON] another member of our committee, highly respected, and chairman of the Subcommittee on Oversight.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman for yielding me this time and commend him for his leadership on this matter, bringing forth a bill that is truly bipartisan and addresses a very significant problem at the IRS.

The American public's willingness to provide the Federal Government with sensitive personal information on their tax returns each year depends on the confidence that the people have that this information will be held in the strictest confidence. That is why it is vitally important to have strong measures in place to ensure the security of tax return information.

Public confidence in the IRS has been again shaken by new reports that the IRS personnel continue to snoop into taxpayer files. Last year the IRS confirmed almost 800 cases in which IRS employees looked through taxpayer files without authorization. That has just got to stop.

As an original cosponsor of the Taxpayer Browsing Protection Act, I believe this legislation will give the IRS the tool it needs to enforce its zero tolerance policy against unauthorized browsing into taxpayer records by making it a crime punishable by up to a year in jail.

Today we are telling IRS employees that if they go into other people's private files, they will be heavily penalized and they may go to jail. As Americans file their tax returns today, they can be confident that their tax return information is theirs alone and their privacy rights will be protected by law by this Congress.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas, Mr. SAM JOHNSON, another respected member of the Committee on Ways and Means.

Mr. SAM JOHNSON of Texas. Mr. Speaker, from 1982 to 1993, the Democrats in Congress voted to increase the taxes of hardworking Americans by \$666 billion. This new revenue was not

put toward the debt or used to eliminate the deficit. Instead it was used to increase the size and scope of Government.

History has shown us that every time Congress increases taxes, they also increase spending. I believe that it is one more reason why the American people should demand that Congress abolish the IRS. I think the agency is out of control.

What the tax limitation amendment will do is provide a safeguard for taxpayers and no longer be simple and easy for Congress to increase taxes. It is a win-win for the American taxpayer. Not only will they get a smaller, more efficient government, but protection from higher taxes.

I think the Speaker agrees with me that something must be done. I think that of the browsing that has been going on, the Speaker probably does not know that 1,500 IRS agents were caught browsing from fiscal year 1994 to 1995, and only 23 of them were tried. The rest were either given a slap on the wrist or counseled. What does counseling mean? I do not know.

We ought to demand accountability not only from the IRS, but from the judges in Boston who ruled it was OK as long as they did not use it maliciously.

Mr. Speaker, I strongly urge my colleagues to vote with us today. Give Americans the assurance of trust they deserve from their Government.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CAMP] another respected member of the committee.

Mr. CAMP. Mr. Speaker, I thank the chairman for yielding me this time, and I rise in support of this protaxpayer bill.

For years the American people have told us that our Tax Code needs reform. Seventy-five percent of Americans believe we need a fundamental overhaul of our tax law. We in the Committee on Ways and Means are continuing a series of hearings today on doing just that.

Incidents like those reported recently, IRS employees browsing through tax records of neighbors, relatives, friends, and with friends like that who needs enemies, IRS employees even browsing the records of celebrities like Tom Cruise, all this shows how badly reform is needed.

With 108,000 IRS employees, twice as many as DEA, CIA, and FBI combined, there is plenty of time, apparently, to fool around. In only 2 years, over 1,500 cases of unauthorized browsing have occurred. Clearly, these IRS employees are doing the wrong things. Do these people have no sense of respect for the privacy of the customers they serve? We and they work for the U.S. taxpayer, and now IRS employees are arrogantly snooping wherever they choose.

Let us pass this bill today. Then we will be able to take appropriate action against those who violate our trust.

Meanwhile, we in the Congress must continue our work and, as the gentleman from Texas, [Mr. ARCHER] is so fond of saying, tearing our present Tax Code out by the roots and putting in its place a fairer and simpler tax system with less room for such fraud and abuse.

Mr. COYNE. Mr. Speaker, I yield myself such time as I may consume just to submit for the RECORD a letter that was written to me by Commissioner Richardson of the IRS on March 10, citing the need for the legislation that we are debating here today and insert that in the RECORD; also, a memo from Commissioner Richardson in October 1993 to all employees of the IRS stating her policy of zero tolerance for any type of browsing within the agency.

DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE,  
Washington, DC, March 10, 1997.

Hon. WILLIAM J. COYNE,  
Subcommittee on Oversight, Committee on Ways  
and Means, House of Representatives,  
Washington, DC.

DEAR MR. COYNE: I wanted to let you know about a case that was recently decided by the United States Court of Appeals for the First Circuit, *United States v. Czubinski*, No. 96-1317, 1997 U.S. App. LEXIS 3077 (1st Cir. February 21, 1997) and to request your support for legislation to clarify the criminal sanctions in the Internal Revenue Code for the unauthorized access of taxpayers' accounts by Internal Revenue Service employees.

Since becoming Commissioner, I have repeatedly stated that the IRS will not tolerate violations by employees of the rules against unauthorized access. The Service's "zero tolerance" policy prohibits any employee access to (and use of) tax information, except to the extent necessary for an employee to perform assigned duties.

In the *Czubinski* case, the First Circuit reversed the conviction of a former IRS employee for improperly accessing taxpayer information in the IRS database. That person had been indicted and convicted of several counts of violating 18 USC §§1343 and 1346 (wire fraud) and 18 USC §1030(a)(4) (computer fraud). In reversing the conviction, the court stated that "unauthorized browsing of taxpayer files, although certainly inappropriate conduct, cannot, without more, sustain [a] federal felony conviction [under 18 USC §§1343, 1346 and 1030(a)(4)]."

This decision and a 1996 acquittal, by a Memphis, Tennessee jury of another former IRS employee who had been indicted for improper access of taxpayer accounts under 26 USC §7213 (Unlawful Disclosure of Tax Return Information), *United States v. Patterson*, Cr. No. 96-20002 (W.D. Tenn. April 10, 1996), are very troubling and make it more difficult for the Service to appropriately discipline employees who violate our policy against unauthorized access.

In the past several years, the IRS has taken a number of steps to ensure that unauthorized access of taxpayer information by IRS employees does not occur. For example, each time an employee logs onto the taxpayer account database, a statement warns of possible prosecution for unauthorized use of the system. All new users receive training on privacy and security of tax information before they are entitled to access the Integrated Data Retrieval System (IDRS). The Service has also installed automated detection programs that monitor employees' actions and accesses to taxpayers' accounts, identify patterns of use, and alert managers

to potential misuse. Employees are disciplined according to a Guide for Penalty Determinations that includes dismissal. In the *Czubinski* opinion, for court noted that "the IRS rules plainly stated that employees with passwords and access codes were not permitted to access files on IDRS [the database] outside of the course of their official duties."

In addition to the internal actions, the IRS has recommended and supported legislative efforts to amend the Internal Revenue Code and Title 18 to clarify the criminal sanctions for unauthorized computer access to taxpayer information. A recent amendment to 18 USC §1030(a)(2)(B) by the Economic Espionage Act of 1996, Pub. L. No. 104-294, 110 Stat. 3488 (1996), provides criminal misdemeanor penalties for anyone who intentionally accesses a computer without authorization or who exceeds authorized access and thereby obtains information, including tax information from any department or agency of the United States. I have been advised by counsel that had this amendment been in effect and applicable to the *Czubinski* and *Patterson* cases, the government very likely would not have lost those cases.

Although the recent amendment to 18 USC §1030(a)(2)(B) will hopefully serve as a significant deterrent to unauthorized computer access of taxpayer information, this statute only applies to unauthorized access of computer records. It does not apply to unauthorized access or inspection of paper tax returns and related tax information. Legislation such as S. 670, introduced in the 104th Congress, would achieve that result. By clarifying the criminal sanctions for unauthorized access or inspection of tax information in section 7213 of the Internal Revenue Code, whether that information is in computer or paper format, the entire confidentiality scheme respecting tax information and related enforcement mechanisms would be appropriately found in the Internal Revenue Code.

An amendment to section 7213 such as was proposed in the 104th Congress would serve important tax administration objectives. (Of course, as is currently the case under section 7213 for convictions resulting from the disclosure of tax information to unauthorized third parties, a conviction of federal officers and employees for the unauthorized access or inspection of tax information would, in addition to imprisonment and fine, continue to result in dismissal from office or discharge from employment.)

We would like to work with you and your staff to assure that improper access can be dealt with appropriately.

Sincerely,  
MARGARET MILNER RICHARDSON.

DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE,  
Washington, DC October 20, 1993.

Memorandum for all employees.  
From: Margaret Milner Richardson, Commissioner, Internal Revenue Service.

Subject: Taxpayer privacy and security.  
One of the most important issues facing the IRS today is the privacy and security of taxpayer account information. Many of the changes we are experiencing right now, as well as the ones we hope to make, depend on our ability to protect private tax information.

In our daily work, we must continue to perform our duties in a manner that recognizes and enhances individuals' rights of privacy and ensures that our activities are consistent with laws, regulations, and good administrative practice. The Privacy Advocate, recently established under the Chief Information Officer to oversee the privacy concerns of the IRS and American taxpayers, has developed a Privacy Policy Statement. I fully endorse the attached statement, which

gives a clear message about the importance of protecting taxpayers and employees from unnecessary intrusion into their tax records.

Any access of taxpayer information with no legitimate business reason to do so is unauthorized and improper and will not be tolerated. I made a pledge to Congress and I make it to you: taxpayer privacy and the security of tax data will not be compromised. We will discipline those who abuse taxpayer trust up to and including removal or prosecution.

The fundamental basis of our tax system, voluntary compliance, is directly affected by the level of trust taxpayers have in our ability to protect their information. The vast majority of IRS employees are dedicated and trustworthy. We must depend on each other's integrity and commitment to this agency and to keeping our tax system the best in the world.

Attachment.

#### TAXPAYER PRIVACY RIGHTS

The IRS is fully committed to protecting the privacy rights of all taxpayers. Many of these rights are stated in law. However, the Service recognizes that compliance with legal requirements alone is not enough. The Service also recognizes its social responsibility which is implicit in the ethical relationship between the Service and the taxpayer. The components of this ethical relationship are honesty, integrity, fairness, and respect.

Among the most basic of a taxpayer's privacy rights is an expectation that the Service will keep personal and financial information confidential. Taxpayers also have the right to expect that the Service will collect, maintain, use, and disseminate personally identifiable information and data only as authorized by law and as necessary to carry out agency responsibilities.

The Service will safeguard the integrity and availability of taxpayers' personal and financial data and maintain fair information and recordkeeping practices to ensure equitable treatment of all taxpayers. IRS employees will perform their duties in a manner that will recognize and enhance individuals' rights of privacy and will ensure that their activities are consistent with law, regulations, and good administrative practice. In our recordkeeping practices, the Service will respect the individual's exercise of his/her First Amendment rights in accordance with law.

As an advocate for privacy rights, the Service takes very seriously its social responsibility to taxpayers to limit and control information usage as well as to protect public and official access. In light of this responsibility, the Service is equally concerned with the ethical treatment of taxpayers as well as their legal and administrative rights.

Approved: Margaret M. Richardson, Commissioner.

Date: October 15, 1993.

DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE,  
*Washington, DC, November 16, 1994.*  
Memorandum for all employees.  
From: Margaret Milner Richardson, Commissioner of Internal Revenue.  
Robert M. Tobias, President, National Treasury Employees Union.  
Subject: Privacy and Security of Taxpayer Information.

Safeguarding public confidence in the integrity and competence of the Service is a top priority for all employees. Each of us must take seriously any perceived or real breach in public confidence and trust in our ability to administer tax laws. The availability of taxpayer information, or any other protected data, dictates a responsibility to

observe privacy principles, to secure sensitive data, and to guard against improper disclosures. Clearly, most Service employees are conscientious and respect the taxpayer's right to expect that the information they provide will be safeguarded. However, any one breach by any one of us seriously undermines public confidence and trust in the Service.

Improper access to, or misuse of, taxpayer information violates law, rule, and regulation and is contrary to our ethical values and principles of public trust. In October 1993, the Service issued a Privacy Policy Statement. The policy emphasizes comprehensive privacy, security, and disclosure requirements. It also represents an application of Service ethical values and principles of public trust in our day-to-day operations. This year, we began to strengthen our commitment to the protection of taxpayer privacy through the Declaration of Privacy Principles and the issuance of the Guide for Penalty Determinations. Each of you received a copy of these documents and we urge you to become familiar with their contents.

Our efforts to maintain taxpayer privacy also includes continually improving Service ability to identify any employee who fails to safeguard taxpayer information and, where appropriate, taking disciplinary action, up to and including removal. This effort is not intended to impose an additional burden on conscientious employees in their use of tax systems. It is, however, intended as a concerted effort to maintain a work environment that reflects the highest standard for the protection of sensitive taxpayer information.

Privacy, security and disclosure issues will continue to be a major consideration and top priority for you as our Compliance 2000 and Tax Systems Modernization efforts lead to the identification of innovative approaches to the protection of taxpayer privacy. Each of us must continually examine how we accomplish our duties and be ever vigilant in safeguarding taxpayer privacy.

DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE,  
*Washington, DC, January 3, 1995.*

Memorandum for all employees.  
From: Margaret Milner Richardson, Commissioner of Internal Revenue.

Subject: IRS information security policy.

Privacy, security and disclosure issues are key elements for the success of our Compliance 2000 and Tax Systems Modernization efforts. The success of the Service in addressing privacy, security and disclosure issues also has a critical impact on voluntary compliance, the fundamental basis of our tax system. Therefore, it is mandatory for each of us to secure sensitive data and guard against improper disclosures.

In October 1993, the Service issued a Privacy Policy Statement developed by the Privacy Advocate. A related document, the IRS Information Security Policy, has been developed by the System Architect's Office under the direction of the Chief Information Officer. The intent of this policy, which is attached, is threefold:

Ensure that the Service complies with the applicable guidance from public laws, regulations, and directives.

Ensure that taxpayer and other sensitive information is protected commensurate with the risk and magnitude of the harm that would result from inappropriate use.

Ensure that taxpayer and other sensitive information is used only for necessary and lawful purposes.

I fully endorse the attached policy statements.

I made a pledge to Congress and I make it to you: taxpayer privacy and the security of

tax data will not be compromised. The implementation of the IRS Information Security policy is an important step in fulfilling this pledge.

Attachment.

#### IRS INFORMATION SECURITY POLICY

P1. It is the policy of the IRS to establish and enforce a comprehensive and appropriate security program that assures IRS information resources are protected commensurate with the risk and magnitude of the harm that would result from the loss, misuse, or unauthorized access to or modification of such resources.

P2. It is the policy of the IRS to collect, use, maintain, and disseminate only that information required for a necessary and lawful purpose.

P3. It is the policy of the IRS to ensure that its information collection, use, storage, dissemination, and derivation processes maintain the accuracy of the information relative to its intended use.

P4. It is the policy of the IRS to ensure that all information and resources required by an authorized individual to perform an assigned function are complete and available when required.

P5. It is the policy of the IRS to collect, use, maintain, and disseminate information with appropriate timeliness to ensure successful completion of IRS business functions.

P6. It is the policy of the IRS to limit access to IRS information and resources to authorized individuals who have a right to the information or resource or a demonstrable need for the information or resource to perform official duties.

P7. It is the policy of the IRS to disclose information to organizations or individuals outside of the IRS only when such disclosure is consistent with public law and other governing regulations.

P8. It is the policy of the IRS to ensure that only functions required for a necessary and lawful purpose be performed on IRS information or resources.

P9. It is the policy of the IRS to prevent, or to detect and counter, fraud.

P10. It is the policy of the IRS to ensure the continuity of operation of activities that support official agency functions.

P11. It is the policy of the IRS to establish and enforce security procedures for persons involved in the design, development, operation, or maintenance activities that affect the protection of IRS information and resources.

P12. It is the policy of the IRS to ensure that its work force has the technical and awareness training, appropriate to level of responsibility and authority, to implement and adhere to an IRS security program.

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

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona, [Mr. HAYWORTH], another respected member of the Committee on Ways and Means.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman for yielding me this time. I apologize, but I was visiting with constituents from the great State of Arizona, so I hope I can be forgiven my tardiness.

Mr. Speaker, I rise in strong support of this measure. Indeed, the only criticism I would have would be with its name, Taxpayer Browsing, because I believe that is far too mild a term for what has transpired.

As Americans, if we truly champion the notion of privacy, then we should

react as we are reacting today, in a bipartisan fashion, to put an end to this obscenity, this voyeurism in the vault that allows bureaucrats to take a look at the most sensitive financial information supplied by any citizen.

What we will do today, Mr. Speaker, is to rise collectively, as a body, to end this obscenity, for it is totally at odds with our notion of a right to privacy. It is totally at odds with the notion of fairness and, indeed, I champion the fact that this legislation now prescribes exact penalties so that those voyeurs of people's records will be punished when they are caught and that taxpayers, whose records have been violated, will be notified of such violation.

□ 1245

Mr. Speaker, the late Supreme Court Justice Potter Stewart when talking about obscenity said, "I can't define it. I know what it is when I see it."

Mr. Speaker, what has occurred in the past has been an obscenity the American people can do without. Punishment will be swift and sure. This is a positive action we take together on a bipartisan basis to say let us rein in those who would abuse our rights to privacy.

Mr. COYNE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. I thank the gentleman from Pittsburgh for yielding me this time and for his good work.

Mr. Speaker, today is a day that we all dread, and we know that it comes every year. As the old expression goes, "You can be certain about death and taxes." But there is another thing that you should be certain about, and that is your privacy.

As technology continues to advance and more of us surf the net, privacy becomes more difficult to protect. Information that individuals report on their tax returns should be kept confidential. Individuals have every right to expect that this information will remain confidential and that liberty should not be violated.

Senator GLENN has worked diligently to correct browsing at the Internal Revenue Service. Browsing is unauthorized opportunities to peek at tax returns. In 1993, the IRS commissioner established a zero tolerance for such conduct.

The IRS is working toward fair and private tax administration, and this is but another example. Commissioner Richardson has requested this legislation today, and we hope that it will eliminate browsing. I have been a co-sponsor of this legislation, and I certainly believe that the IRS is correct in attempting to implement a zero tolerance policy.

The purpose of this legislation is to clarify in the Tax Code criminal sanctions for the unauthorized inspection of tax information. Violators would be

subject to significant criminal sanctions and dismissal from IRS employment. Criminal sanctions would apply to IRS employees, IRS contractors, and other Federal and State employees having access to Federal tax information. Tax information on paper and in computer data bases would be protected from browsing.

Some of the browsing which has occurred at the IRS entailed the unauthorized viewing of celebrities' tax returns. We need to send a strong message to IRS employees that they should respect the rights of all citizens and taxpayers. IRS employees should not act on impulses based upon curiosity. It may be tempting to look at the tax files of such famous individuals as Lucille Ball, but everyone should have their expectation of privacy met.

This legislation will provide a deterrent against IRS employees taking a quick look at tax returns for purposes not related to work. I commend the IRS for identifying this problem and taking corrective action immediately. Commissioner Richardson also should be noted for her work on this legislation, and today we will pass it in a bipartisan manner. This legislation is something positive that we can do for all taxpayers. We can ensure their basic right to privacy.

While I urge an affirmative vote on the Taxpayer Browsing Protection Act, I also would point out to my colleagues in this institution and to members of the media as well that one of the most fundamental rights in this society is the basic notion of privacy. It is also the cornerstone of liberty.

Mr. COYNE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH], the respected Speaker of the House of Representatives.

Mr. GINGRICH. I thank my friend, the chairman, for yielding me this time.

Mr. Speaker, let me say first of all I want to commend both sides of the Committee on Ways and Means, both the Republicans and the Democrats, for bringing this timely bill out in a very responsive way.

We were surprised, I think, all of us, to discover how frequently Internal Revenue Service agents look at, I would use the word "snoop" rather than "browse," the private files of individual citizens. There were apparently in the last year over 800 cases of different employees illegally looking at tax returns without authorization. Ninety of them were fired. The rest were either reprimanded or received a slap on the wrist, yet supposedly the Internal Revenue Service has a zero tolerance policy for these abuses.

I commend the Committee on Ways and Means on this bipartisan effort to change the law to make clear that the Congress will not accept Internal Revenue agents stepping over their bounds

and looking at private tax information purely out of curiosity or, in some cases, potentially in order to blackmail people.

This step of beginning to curb IRS abuses is only the first step in what I think will be a real landmark Congress in bringing the Internal Revenue Service under control. The fact is, with 110,000 employees, the Internal Revenue Service is too big, too complex, and too arrogant.

For the average citizen, let me just say 110,000 IRS employees compares with 5,500 working for the Border Patrol or 7,400 working for the Drug Enforcement Administration. So there are almost 10 IRS agents for every person protecting us from drugs and illegal immigration. I think that is clearly too many. One of our goals is to change the IRS as we know it, to shrink it, to go through tax simplification, to make sure that we have a much simpler and much fairer tax system.

The need for a simpler tax system was made clear when the IRS spent \$4 billion, not million, \$4 billion trying to build a computer that could understand the Tax Code. The fact is that that computer could not understand the Tax Code because the Code is probably incomprehensible. Every year reporters call five or six different IRS offices and get five or six different answers, because it is impossible for any human to fully understand the complexity.

I want to commend the gentleman from Texas [Mr. ARCHER], the chairman, for a joint editorial that he and the gentleman from Texas [Mr. ARMEY], the majority leader, had in this morning's Washington Times where they both begin to outline the case for dramatic, bold tax simplification. They happen to go at it in slightly different ways. The gentleman from Texas [Mr. ARCHER], the chairman, would replace the entire income tax with a sales tax. The gentleman from Texas [Mr. ARMEY] would have a very flat income tax that one could fill out on a single page. But both of them have the right direction.

The debate over the next 2 or 3 years between a flat tax or replacing the income tax with a sales tax will be one of the most important debates in American history, and one of the consequences of that debate will be the adoption of a system which is dramatically simpler, with a much smaller IRS, with much less impact on your lives.

Let me give a couple of examples of how complicated this gets and how bad the need is, how desperate the need is, for change. Let me start with, one of my staff brought in his daughter's paperwork. She has a small amount of money she has been saving. Her parents and grandparents have tried to help her save money for college. She is 10 years old. They put it in a little fund for her.

Last year, the stock market went up too much. She had not paid quarterly,

so at 10 years of age she found she had a \$6 penalty. It took nine pages of tax forms to get to that point.

I note from some material that the gentleman from Ohio [Mr. BOEHNER], chairman of the House Republican Conference, has shared that in 1992 the Internal Revenue Service seized \$26 from the bank account of a 6 year old to help pay her parents' overdue tax bill. Now surely at 6 years of age one hardly needs to encounter the IRS.

We had in my own district a couple that had taken over a small firm. This was a little company called Pro Tackle in Duluth, GA. When they took over the firm, they found out that the former chief executive at a previous time under the previous corporation had embezzled the excise tax funds. The IRS pursued the new couple and the new firm and basically put them out of business through a mistake. They did not understand that the legalities had changed, that in fact they did not owe the money, and between the cost of the attorney and the cost of fines and penalties, Mr. Mitchell, my constituent, was forced out of the bait and tackle business. Finally, years later, the IRS came back and said they goofed.

Similarly, there are other examples, and some of these, frankly, are almost impossible to believe, but let me give some examples. The Heritage Foundation issued a report that a day care center which allegedly owed the IRS \$14,000 was raided by armed agents who then refused to release the children until parents pledged to give the Government money.

One taxpayer in 1993, this again is from the Heritage Foundation, was fined \$46,806 for an alleged underpayment of 10 cents. Another taxpayer was fined \$10,000 for using a 12-pitch typewriter, that is a kind of type, to fill out his tax form instead of a 10-pitch typewriter. Again, that is from the Heritage Foundation.

Going through case after case, one discovers that the IRS is out of touch, it is arrogant, it does not understand the average American, and I am not quite sure how they train their new employees, but again and again they seem to have difficulties.

Money magazine sent reporters posing as ordinary citizens to 10 different IRS district offices around the country and had them call the IRS help line and ask 10 common questions. This is according to Money magazine. Quote: It took an extraordinary effort to get a staffer on the line. A full 30 percent of the time, no one who could answer questions picked up the phone. Most of the time, we either got busy signals or recorded messages or were disconnected. Furthermore, well over half the callers who got through, 60 percent, waited 5 minutes or more, including one in four who had to hold for more than 20 minutes.

Money magazine went on to say, and I quote, and when we finally got through, we did not receive the right

answer one out of every five times. The IRS workers answered only 78 percent of our questions accurately, got 12 percent wrong, and promised to call back with the correct answer but then failed to do so 10 percent of the time.

These are the IRS folks who, instead of learning the Tax Code and helping the citizen, have been snooping into the privacy files of citizens without right.

This bill is a first step toward changing the IRS as we know it. It sets the right standard. I commend again both the Democrats and the Republicans on the committee. This is the perfect day to be offering this bill. I just want to take one final moment to encourage the chairman, who I know hardly needs encouragement, but what he is doing in launching this dialog on whether we should replace the income tax with a sales tax or go to a flat tax, what he and Majority Leader ARMEY are doing is truly historic, and I want to take this moment on April 15 to thank him for the leadership he is offering and urge everyone to vote yes on this bill.

Mr. KLECZKA. Mr. Speaker, I rise today in support of a bipartisan bill to protect taxpayers, H.R. 1226, the Taxpayer Browsing Protection Act.

In February of this year, the First Circuit Court of Appeals overturned the conviction of Richard W. Czubinski, a former Internal Revenue Service employee who had snooped through the tax records of several taxpayers. The court claimed that although there was a law against unauthorized disclosure of confidential tax information, there was no law against unauthorized browsing of those private tax records.

The public correctly expects that their tax records will only be inspected by those authorized to do so for legitimate purposes: Browsing is unacceptable, and it must stop.

This bill will prohibit unauthorized review or browsing of Federal tax information which the IRS possesses. It will improve current law by putting criminal sanctions in the Tax Code and by protecting tax information in both electronic and paper forms. Those who break the law would be dismissed by the IRS, could be sentenced up to a year in jail, and additionally could be forced to pay up to \$100,000 in fines. Also upon the filing of a criminal action against a browser, the IRS would notify affected taxpayers who could then sue the violator for civil damages.

Mr. Speaker, taxpayers expect and deserve that the Federal Government will protect the privacy of their personal financial information. As an original cosponsor of this measure, I urge Members to join me in voting "yes" today on H.R. 1226, the Taxpayer Browsing Protection Act.

Mr. STARK. Mr. Speaker, I rise in support of H.R. 1226, the Taxpayer Browsing Protection Act.

This bill bolsters the administration's position of zero tolerance for unauthorized browsing of taxpayer information. Current law focuses more on unauthorized disclosure of taxpayer information. This bill addresses—and makes a crime—IRS employees looking at a taxpayers records when they have no justifiable reason to do so, even if no disclosure of the information to others takes place.

Taxpayers are entitled to privacy of their records and we must assure that the information they provide the IRS will be protected. Protection of privacy rights of taxpayers is critical for a voluntary tax system.

IRS employees also deserve to have their ranks purged of those whose unlawful acts bring shame on Federal workers.

As a cosponsor of H.R. 1226, I am pleased to see that the House is responding to the administration's request for action on this legislation.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on the motion offered by the gentleman from Texas [Mr. ARCHER] that the House suspend the rules and pass the bill, H.R. 1226, as amended.

The question was taken.

Mr. ARCHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### SENSE OF HOUSE ON FAMILY TAX RELIEF

Mr. ARCHER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 109) expressing the sense of the House of Representatives that American families deserve tax relief.

The Clerk read as follows:

#### H. RES. 109

Whereas American families currently pay too much of their hard-earned money in taxes;

Whereas every American will work for at least 120 days in 1997 to pay his or her share of taxes;

Whereas Americans should be allowed to keep more of their money to invest in their children's futures, purchase homes, or start businesses; and

Whereas the American family will be strengthened by providing tax relief: Now, therefore, be it

*Resolved*, That the House of Representatives urges that the Congress and the President work together to enact permanent tax relief for our Nation's families.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. ARCHER] and the gentleman from California [Mr. MATSUI] each will control 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

#### GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on House Resolution 109.

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

There was no objection.

Mr. ARCHER. Mr. Speaker, I ask unanimous consent to yield the balance of my time to be managed by the gentleman from Pennsylvania [Mr. PITTS] and I further ask unanimous consent that he be able to further yield blocks of time.