Mr. SHAYS. Mr. Speaker, we are eager to have cosponsors on this legislation. This is bipartisan. It is a Democrat and Republican bill. It has the endorsement of the President of the United States and the cooperation of the EPA. This in fact is legislation they would like to see become law, like to see these additional funds. We are looking forward to seeing it become law.

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

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

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

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

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

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

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

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

DISASTER INSURANCE

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

Mr. MCCOLLUM. Mr. Speaker, I take this time today to talk about a couple of issues. The first one is disaster insurance and the problems that most of the States that I am familiar with, Florida, California, have with the fact that today we cannot get reinsurance in terms of casualty and property insurance for those kinds of disasters and catastrophic events that occur in our States.

Many of the States along the coast particularly of this country, whether that be the Gulf of Mexico or the Atlantic Ocean, have tremendous exposure to hurricanes. Hurricanes can do tremendous damage. In Florida a couple of years ago we had a hurricane known as Andrew. Andrew caused $16 billion worth of damage by going through a section south of Miami known as Cutler Ridge. If that hurricane had gone through Fort Lauderdale, we are told by experts that that hurricane would have caused $40 or $50 billion worth of damage. If it had gone through Miami downtown, Lord knows how much it would have cost, but it would have been a lot.

In California within a couple of weeks of Hurricane Andrew they had a relatively mild earthquake but serious enough to cause about $12 billion worth of damage. We are likely to see hurricanes and earthquakes, particularly big earthquakes, in California that will be staggering in total losses in terms of the entire damage done in the next few years in these cataclysmic events that occur, hopefully, only once in a lifetime or once in a century. But when they occur they do enormous damage.

There is a need because the insurance capabilities of private insurance and the States are not capable of dealing with it. There is a need to have Federal involvement. That is why I introduced legislation known as H.R. 230, which would address this problem by providing a national form of reinsurance for those who provide the kind of catastrophic coverage and property and casualty coverage in hurricanes and earthquakes and other natural disaster situations.

The way this legislation would work would be that first of all there would have to be a $10 billion or greater total loss in the natural disaster to trigger the involvement of the Federal interest. Then, when that occurred, there would be a trust fund set up in the Treasury Department, and that trust fund would be created by the sale of reinsurance contracts to insurance companies who do this kind of business at an auction, an auction set by a commission which would be developed under this legislation.

Mr. Speaker, that auction would result in premiums for the contracts being paid yearly by the insurance companies into this trust fund. Then, when we had a disaster of $10 billion or greater all together, for the next $25 billion in losses up to a $35 billion disaster, the trust fund moneys would come into play and the Treasury would pay out of the trust funds on a pro rata basis to the insurance carriers the reinsurance proceeds.

This would enable a more orderly process to take place in States and in localities where these catastrophic events take place, and would eventually allow, I believe, for there to be a lowering of the insurance premiums that are now going through the roof for homeowners and business owners in these affected States. I think that it is very important that our colleagues take a look at this legislation. I would invite cosponsorship of it.

I would hope that we could move a bill of this nature or something similar to it through this Congress this session. The gentleman from New York [Mr. LAZIO], chairman of the Housing Subcommittee, has been on the floor a lot the last few days as this bill and a similar product that he has introduced and cosponsored, as he has cosponsored mine in his committee. We are looking forward to the kind of support that will allow us to proceed to get this type of law enacted.

I might say that every State is affected by this because, if we get a pool of insurance moneys for reinsurance like this in the Treasury that is accumulated by premiums being paid by insurers, it is going to save the taxpayer money in the event of major losses.

We are talking about a supplemental appropriation now for disasters in flood prone areas and so forth. We are always going to have Federal money being spent when you have a major disaster.

If we can have an insurance pool like this that is stimulated to fill a void in the market since there is no private reinsurance to speak of for this purpose now and could lower insurance premiums for individual homeowners and businesses at the same time, we will have done two things: One, we will have helped people get insurance and afford insurance in States where catastrophic incidents and disasters occur. We will also have protected the taxpayers from losses that will occur when disasters occur and somebody comes knocking on our door for assistance.

Last but not least, in the few remaining moments I have, I would like to point out that in the Subcommittee on Courts and Intellectual Property, where I serve, a hearing is going on now dealing with the subject of judicial activism. That is a somewhat controversial topic, but a few weeks ago there was a publication, an article in Human Events, which is a known periodical, on the subject of the constitutionality of impeaching judges for going too far, for not performing in good behavior, a very scholarly work.

I do not know what that line should be. I will include for the RECORD the article from Human Events that I am referring to to be incorporated:

[From Human Events, Apr. 11, 1997]

CONGRESS SHOULD THROW THE BUMS OUT

(By Robert J. D'Agostino and George S. Swan)

House Majority Whip Tom DeLay (R.–Tex.) recently gave voice to what many conservatives all across America have been thinking for years: Judges who flout the Constitution should be impeached, through the means provided in the Constitution itself, by a majority vote in the House followed by a two-thirds vote in the Senate. ''As part of our conservative efforts against judicial activism,'' DeLay said, ''we are going after judges.''

But Senate Majority Leader Trent Lott (R.–Miss.) poured cold water on the fire DeLay had lit when he told the Washington *Times* that he would not consider impeaching a judge who had not committed a crime. ''Not me,'' said Lott.

But it is DeLay, not Lott, who understands what the Framers intended to be the true constitutional role of Congress in curbing abuses of power by federal judges.

The impeachment of federal judges is a matter of congressional will. Article III, section one, of the Constitution provides that federal judges, including the Justices of the Supreme Court, ''shall hold their Offices during good behavior.'' This is in addition to the right of Congress to remove ''all civil officers'' for ''treason, bribery, or other high crimes and misdemeanors.''

The phrase ''good behavior'' commonly is associated with the English Act of Settlement of 1701. That act granted judges tenure for as long as they properly comported themselves. The historical basis and the current perceptions of this language (good behavior) alike signal that the standard applying to federal judges ''is higher than that constitutionally demanded of other civil officers,'' according to Harvard Law School Professor Laurence H. Tribe in this treatise ''American Constitutional Law.''

Justice Joseph Story, who served on the Supreme Court from 1811 to 1845, was of a similar view and expressed concern about judges yielding ''to the passions, and politics, and prejudices of the day.'' It may be inferred that good behavior means fidelity to the Constitution, although Prof. Tribe might have a noninterpretive definition of fidelity.

As U.S. House of Representatives Minority Leader Gerald R. Ford (R.–Mich.) told the House on April 15, 1970, regarding a bid to impeach Supreme Court Justice William O. Douglas:

''What, then, is an impeachable offense? The only honest answer is that an impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history; conviction results from whatever offense or offenses two-thirds of the other body considers to be sufficiently serious to require removal of the accused from office. Again, the historical context and political climate are important; there are few fixed principles among the handful of precedents.''

An energetic Congress can make sufficient time to impeach errant federal judges. In 1989 the House impeached and the Senate removed both U.S. District Judges Alcee L. Hastings and Walter Nixon.

In a decision resulting from a procedural challenge by Walter Nixon to his impeachment, the Supreme Court stated, ''A controversy is non-justiciable—i.e., involves a political question—where there is a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it.'' (*Nixon* v. *United States*, 1135 Ct 732 [1993]) In other words, there is no judicial review of the impeachment process.

Impeachment is, in fact, the Court said, ''the only [effective] check on the Judicial Branch by the Legislature.'' To suggest as some have that a legislative check on the judiciary (for other than criminal acts) would eviscerate the principal of separation of powers is absurd. The presidential veto allows the executive to check the legislative branch; the two-thirds override and the power of the purse allow the legislative to check the executive; and the Article III jurisdictional control of federal courts by the legislative and the legislative impeachment powers allow a check on the judiciary.

Founding Father Alexander Hamilton in ''Federalist Paper No. 81'' envisions Congress' impeachment power as a check on legislating from the bench. While discussing the reasons for considering the judicial the weakest of the three branches of government, he wrote: ''And this inference is greatly fortified by the consideration of the important constitutional check which the power of instituting impeachments in one part of the legislative body [the House], and of determining upon them in the other [the Senate], would give to that body upon the members of the judicial department. This is alone a complete security. There can never be danger that the judges, by a series of deliberate usurpations on the authority of the legislature, would hazard the united resentment of the body intrusted with it, while this body was possessed of the means of punishing their presumption by degrading them from their stations. While this ought to remove all apprehensions on the subject, it affords, at the same time, a cogent argument for constituting the Senate a court for the trial of impeachments.''

Of course, Hamilton was wrong when he said that judges would never usurp the powers of the legislature. Perhaps this is because Congress has refused the employ that check on the judiciary which he explicitly considered it to possess.

What then is good behavior? It is what Congress decides. There is no textual limitation in the Constitution, and thus its meaning must be left to the branch of government, the Congress, charged with the responsibility to apply it. Certainly, disregard of the plan meaning of the Constitution and the usurpation of the legislative authority are examples of misbehavior. Prof. John Baker of Louisiana State University Law Center suggests that a usable guide for deciding whether a judge has violated standards of good behavior is ''if on matters pertaining to the Constitution he or she has regularly rendered decisions which can be reasonably characterized as based on 'force' or 'will' rather than merely judgment. A judge exercises 'force' or 'will' rather than judgment on an issue . . . if his or her decision is not reasonably based on the explicit text of the Constitution, one of the Amendments or evidence of the intent of the Framers and ratifying bodies of the pertinent part of the Constitution or Amendment.''

In other words, Prof. Baker suggests that if a judge behaves arbitrarily and capriciously, that is, without the constraint of law, he ought to be impeached. We concur.

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

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

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

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

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

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

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

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

AN ISSUE RELATIVE TO H.R. 1469

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

Mr. OLVER. Mr. Speaker, tomorrow this House is going to take up H.R. 1469, which in its major part is an emergency appropriation bill to help the flood victims in the western part of the States, particularly North Dakota, deal with a very tragic situation.

Within that bill, in title I of that bill, section 601 of that legislation makes a major change in the procurement policy under which our Bureau of Engraving and Printing operates which has never been considered by either the Committee on Government Reform and Oversight under the leadership of the gentleman from Indiana [Mr. BURTON] nor the Committee on Banking and Financial Services under the leadership of the gentleman from Iowa [Mr. LEACH].

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Neither of the authorizing committees dealing with this subject has held so much as a single hearing on the issue that is before us and, therefore, it has no place in an appropriations bill and is clearly not an emergency matter related to the victims of national emergencies.

Now, the provision involved in section 601 requires that the Treasury Department must give capitalization subsidies to companies that are interested in becoming new suppliers of currency paper to the Bureau of Engraving and Printing. Capitalization subsidies, Mr. Speaker, are cash payments for new equipment or new facilities in order to manufacture paper. The amount of such cash payments could reach as much as $100 million.

The manner in which this change in our law would be imposed, a change, remember, that has never been considered by either of the authorizing committees, the Committee on Government Reform and Oversight nor the Committee on Banking and Financial Services, the law would apply special provisions of our longstanding procurement laws of this Nation that were designed to induce proposals where there is no willing supplier of a commodity or a product that the Government needs and provide these cash subsidies, these capitalization subsidies, in order to induce such suppliers.

Well, there are and have been over the years willing suppliers. There is a willing supplier now and there have been on other occasions other willing suppliers. So we do not have the circumstances of the Government not having a willing supplier, and so the proposal to change the law is before us.

Section 601 also makes another change. It changes the Conte rule that had been promoted and established in 1989, under my predecessor in the first district in Massachusetts, which set the foreign ownership that could be involved in the manufacture of the American currency at 10 percent and changes that so that it can be anything up to 50 percent.

Now, our American currency is right at the very core of our national security and, actually, our sovereignty.