rural America, I get a little bit antsy, and I think that is the case that is happening right here.

I was down at Klamath Basin a little over a year ago at a hearing, and I heard what the farmers went through. It was devastating to them; and now this amendment, which looks innocuous, it just simply says a person cannot grow row crops and no money should be used for row crops or alfalfa. That has an unintended consequence in my view in the future of now saying on reclamation projects a person is limited to what crops they can grow.

It sets a precedent and I think a very bad precedent that could apply to areas probably all over the country, including the central valley of California and my area of Washington, Columbia Basin Project, that I think is very detrimental because those larger areas have the large diversity of crops.

I think the gentleman comes at this with strong feelings. It is a bad way to go, in my view. I urge my colleagues to oppose the amendment.

Mr. WAMP. Mr. Chairman, I yield the balance of our time to the gentleman from California (Mr. DOOLITTLE), a member of the Committee on Appropriations.

Mr. DOOLITTLE. Mr. Chairman, this area has been devastated by government mismanagement already. We already know the history when for no good scientific reason the water was cut off to the farmers. It did irreparable harm, and it should not have happened, and now we come with this new amendment which is going to just compound the error that was made then and will do grave injustice to a community that depends upon the farming.

The farming is essential to these refuges. These refuges do not use much water. I think 2 percent of the water developed in the basin goes for the purpose of agriculture. It is really a de minimus amount.

It is clear that pesticides are not a problem. We have had these uses compatible that have gone on for over a hundred years in this area. There is a waterfowl area. We need farming. The Kuchel Act mandates we have farming in order to sustain the refuges. We have to have this continue. It would be a terrible injustice to enact this amendment.

We need to stay focused, get the good science; and the good science says that agriculture and refuges are compatible. Please defeat this amendment.

The CHAIRMAN. The question is on the amendment of the gentleman from Oregon (Mr. BLUMENAUER).

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

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

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Oregon (Mr. BLUMENAUER) will be postponed.

Mr. WAMP. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. DAN MILLER of Florida) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON H.R. 3763, CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT OF 2002

Mr. OXLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. CONYERS moves that the managers on the part of hte House at the conference on the disagreeting votes of the two Houses on the Senate amendments to the bill H.R. 3763 be instructed to recede from disagreement with the provisions contained in the proposed section 1520 of Chapter 73 of Title 18 of the United States Code added by section 802, and the provisions contained in sections 804, 805, and 806 of the engrossed Senate amendment.

The SPEAKER pro tempore. Under the rule, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Ohio (Mr. OXLEY) each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

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

This motion to instruct conferees would be to ask the acceptance of four antifraud measures contained in the Senate measure that were not included in yesterday's suspension bill. These provisions relate to document retention, statute of limitations, whistleblower protection, and sentencing enhancement. All of these were contained in the same measure in the other body that enjoyed a 97 to 0 vote last week.

First, we would ensure that auditors maintain their audit review and other work papers for a period of 5 years after the conclusion of an audit review. This will make sure that evidence of potential accounting fraud is retained for future investigation. In addition, the motion would give defrauded investors more time to seek relief. Under current law, defrauded investors have a year from the date on which the alleged violation was discovered or 3 years after the date on which the alleged violation occurred; but because these types of wrongs are often successfully concealed for years, the other body increased the time period to 2 years after the date on which the alleged violation was discovered or 5 years after the date on which the alleged violation occurred.

□ 1715

And this motion to instruct carries that provision.

In addition, we protect corporate whistleblowers. In the other body that measure was contained in the Grassley amendment, which extended whistleblower protections to corporate employees, thereby protecting them from retaliation in cases of fraud and other acts of corporate misconduct. Those like Sharon Watkins should be afforded the same protections as government whistleblowers.

The last provision in the motion to instruct would provide for strong sentencing enhancements. In the other body the bill included the Leahy-Hatch sentencing enhancements when a securities fraud endangers the solvency of a corporation and for egregious obstruction of justice cases where countless documents are shredded or destroyed.

Now, the Enron scandal broke in November 2001. Since then, our stock market and the economy as well have been devastated by a wave of scandals: Arthur Andersen, Global Crossing, Xerox, MCI, Merck, Quest and others. Tens of billions of hard-earned pension and retirement dollars have evaporated while those at the top of the corporate ladder have cashed out their options.

During this period of time, no person, not a single individual, has faced a single indictment from the Department of Justice. My instructions will give the Department the tools that they need to protect our investors and bring some of these people who have escaped, so far, to justice.

It is my hope that we will get the support that is needed to instruct our conferees in this fashion.

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

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

Mr. Speaker, having just seen this document, the motion to instruct, I would have to say to my friend, the gentleman from Michigan, that most of the issues that he talks about in his motion I have a great deal of empathy for. Certainly the issue over document destruction, of whistleblower protections, and the like, are all part and parcel of what ultimately I think this legislation needs to look at.

I have some concerns, as the gentleman might expect, regarding the language of the extension of the statute of limitations in regard to lawsuits. As the gentleman knows, back in

1995, Congress, on a bipartisan basis, passed the Securities Litigation Reform Act. That was vetoed by then-President Clinton and was the only veto ultimately overridden. So, in fact, the House and the Senate spoke very loudly in 1995 on that issue.

It is also true that Chairman Greenspan, when asked in the Senate yesterday, when he testified as to whether he saw any need to change the existing statute in regard to securities litigation reform, answered in the negative. So we are, on this side, somewhat perplexed that the minority would choose this particular issue, which was ultimately not part of the legislation that came out of the Committee on Financial Services, the committee of major jurisdiction, so I have some concerns about that part.

On the other hand, it seems to me those are the kinds of issues that we need to work towards and to complete in a conference.

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

Mr. CONYERS. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from New York (Mr. LAFALCE), the distinguished ranking member of the Committee on Financial Services.

Mr. LAFALCE. Mr. Speaker, I thank the distinguished ranking member of the Committee on the Judiciary, the gentleman from Michigan, for yielding me this time.

I think the best thing that this House could have done would have been to accept the Senate-passed bill as is. Pass it today and send it today to the President for his signature. I cannot think of anything else that would have restored as much integrity to our publicly traded markets, as much confidence on the part not just of the American public but the world in the integrity of those markets of that single act.

I would still like to hear President Bush call for passage by the House of Representatives of the bill that passed the Senate 97 to 0. Now, my colleagues like to talk about bipartisanship. Ninety-seven to 0 is unanimous with respect to every single Senator from both parties that was voting. They were able to forge a consensus. If they can forge a consensus 97 to 0, and if the President really wants to sign a bill before the end of July, as he said, that is the approach we should take.

Now, unfortunately, the House Republican leadership does not want to take that approach. However, there are alternatives. We could take up the Senate bill and offer one or two amendments to it. If there are four or five or six amendments, my colleagues could offer those four, five, or six amendments to the Senate bill and send it back to them. And that would be a very expeditious way of proceeding.

What I am fearful of is that this conference that my colleagues want to go to could be two things: Number one, long and drawn-out; and, number two, an opportunity to dilute behind the scenes and closed doors the strong provisions of the Senate bill. And we are not going to let that happen.

I want to put everyone on notice right now that on every single issue where we differ from the Senate I intend to have total transparency. There will be a revelation to the world of every single issue and difference and every single vote within conference. There will be total transparency so that they can understand what we are trying to do to protect the American investor and what others might be trying to do.

Now, with respect to the motion of the gentleman from Michigan, what he is trying to do is say that at the very least there are certain provisions within the Senate-passed bill that the House should recede to. It is basically the Sarbanes-Leahy bill, and the ranking member of the House Committee on the Judiciary has focused in on the Leahy provisions, particularly section 802, dealing with the criminal penalties for the altering of documents; section 805, mandating a review of the Federal sentencing guidelines; section 806, creating a private cause of action for whistleblowers if they are in any way discriminated against, a civil cause of action; and very, very importantly, a statute of limitations, because the statute of limitations issue that we are talking about was not dealt with by this Congress. The statements that we did were erroneous.

We need to deal with that because, unfortunately, by the time we discovered the wrongdoing that took place in the Enron case, in the Global Crossing case, in the WorldCom case, et cetera, the private cause of action may have seen the statute of limitations expire. So we need more time. That is an essential and important provision.

There is no reason whatsoever for opposing that. There is no reason whatsoever for opposing any of those provisions. And because of that, the distinguished gentleman from Michigan has said let us instruct the conferees to recede to the Senate on those issues.

If my colleagues oppose this motion to instruct, that means that they oppose those particular provisions within the Senate bill. Let there be no mistake about that. So the issues will be quite clear when we do go to a vote on this motion to instruct.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Speaker, I want to commend the chairman on his work in gaining corporate responsibility. I would not stand here today if I did not believe at the end of our session here before recess that we would not have a bill on the President's desk.

Just in the last few weeks, the Dow Jones Industrial saw about a 10 percent decline. Yesterday, just yesterday alone, $152 billion of wealth disappeared; $2.6 trillion just this year alone. Those are big numbers.

Now, we heard from my good friends in the minority about process and what goes where and about a very long drawn-out process. But let me say this: The other day I had a woman at a coffee who came in, an elderly woman, and she could not get three words into her story before she started to shake and tears started running down her face because she was just informed that they would not be able to retire in 12 months. Too much of their 401(k), too much of their retirement, was gone.

Now, let me tell my colleagues what they understand, my colleagues. They do not care whose name is on the bill. They do not care what process is used to get to the bill. They want trust, they want accountability, and they want somebody to pay the price for stealing. They understand that whether someone wears an Armani suit or a cheap ski mask, if they steal money, they ought to go to jail. They want us to understand that they are counting on us in Congress, not Republicans, not Democrats, not a name on a bill, but all of us to stand up together and say we are going to reinvigorate the trust and confidence in our American markets.

I think today that will happen. I am very, very pleased at what this chairman has done and what he has committed to do, and with that, I intend to enter into a colloquy with the chairman.

The gentleman from Ohio is going to be the chairman of the conference committee that will hear this matter in conference; is that not true?

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. ROGERS of Michigan. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, the gentleman is correct.

Mr. ROGERS of Michigan. Reclaiming my time, Mr. Speaker, the gentleman has made a commitment, and today a very public commitment, that by the end of next week, before this House recesses, the President will have on his desk to sign into law a bill that upholds the principles that the gentleman has fought so hard for these last few months on corporate responsibility; is that correct?

□ 1730

Mr. OXLEY. Mr. Speaker, if the gentleman will continue to yield, I want to assure the gentleman from Michigan (Mr. ROGERS) that is exactly what our goal is. The President has tasked this Congress to get a bill to his desk before the August break. The Speaker has done the same. I am committed, and I think all of us are committed, to getting that job done.

Mr. ROGERS of Michigan. Mr. Speaker, reclaiming my time, we have heard from the gentleman who has given his commitment. Do not talk about months; do not talk about weeks. Do not let one more tear fall on the statement of a 401(k) plan. Let us work together and get this done for the people of America. It is too important.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I am delighted that the gentleman wants to work together. That is what we want to do. We want to instruct the conferees to accept these specific four provisions of the Senate-passed bill. If the gentleman wants to work with us, let us vote for this motion to instruct the conferees, unless the gentleman opposes those four provisions. If he opposes those four provisions, or portions of them, the gentleman should come to the floor and tell us what he opposes about them. I do not think that we could be any more cooperative than that.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, we talk about important bills, and this is one of them. I support the gentleman from Ohio (Mr. OXLEY), who has worked very hard on this issue. I also want to see this issue resolved by next week.

The Democrats talk about the Sarbanes bill as if it is the end-all, be-all bill on this floor. While I was on the Senate floor watching the debate, they resisted Senator MCCAIN's efforts to include language relative to options. They did a procedural effort to stop calculating options in the corporate environment. So it is not perfect.

But I have been given assurances by the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, that he is going to go into the room and see that we have a final working product with Senator SARBANES, who I have a great deal of respect for on this issue; and I believe that is going to be accomplished.

The gentleman from Michigan (Mr. ROGERS) enunciated some of the concerns that I have as well: stabilizing the markets, ensuring integrity, bringing relief.

I will not be supporting the motion to instruct. I am going to work with our chairman, and I hope that we will deliver a product. But I can assure the House that we will be back on Wednesday and Thursday if it is not delivered to the floor for a vote.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I have great regard for the gentleman from Florida (Mr. FOLEY), and even higher regard because of the letter which he sent out saying, let us send something to the President's desk before we recess, and if need be, the Senate-passed bill. I thank the gentleman very much for that.

With respect to the issue of the expensing of stock options, I would love to have FASB promulgate a requirement that stock options be expensed. I have called for that since 1994 when FASB recommended that. But unfortunately, there was so much pressure within Congress to do that that FASB withdrew it as a mandate and merely said do it voluntarily. Only two companies in the world did it.

At the very least, the Senate bill does say to FASB reconsider that issue and if they think it should be mandated, mandate it. The House bill is absolutely silent on that. So if Members want the ranking member from Michigan to alter his motion to instruct the conferees to get them to accept that provision of the Senate bill, I will do what is within my power to get him to so amend that amendment.

The House bill is silent on the issue of expensing. We on this side of the aisle want FASB to reconsider it and not just recommend it, but require it, as Warren Buffitt says we should do, as Alan Greenspan says we should do, as Coca-Cola said they will do, as BankOne said they will do, and as the Republicans have repeatedly said, let us not do.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. COX), a valuable member of our committee.

Mr. COX. Mr. Speaker, I have read carefully the very brief motion to instruct conferees and the underlying provisions of the Senate-passed bill that the House would recede were we to adopt this. I am surprised that the motion to instruct focuses on the criminal provisions of the House and the Senate bills respectively because it is well known that the House-passed bill that we adopted here earlier this week by a vote of 391 to 28 is much tougher than the Senate bill.

The specific provision concerning shredding of documents that this motion to instruct would have us adopt, we would recede to the Senate position, drop any disagreement with the Senate position, would have us adopting a 10-year maximum sentence for shredding documents. But just a few days ago by a vote of 391 to 28, virtually every Member sitting on the floor right now voted for a maximum sentence of 20 years.

I cannot understand why, if we want to be tough on corporate fraud, if we want to be tough on corporate wrongdoers, we would focus on this portion of the disagreement between the House and Senate bill and substitute the far-weaker provisions of the Senate bill.

The Senate bill provisions that we are asked to accept in this motion to instruct also include obstruction of justice penalties. The maximum penalty for obstruction of justice in the House-passed bill earlier this week is 20 years, significantly lengthening the provisions under existing law. What the Senate bill does on this point is ask the United States Sentencing Commission to review the sentencing guidelines and do what they think is necessary to deter offenders.

Adopting the far weaker provisions of the Senate bill in this respect, where we know that the criminal provisions enacted by this House are much tougher, makes no sense at all; and I regretfully must oppose this motion to instruct conferees.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to myself.

Mr. Speaker, I must say to the gentleman from California (Mr. COX) the conference is on the Sarbanes bill and the Oxley bill. This motion to instruct in no way changes anything in either of the two bills, and it merely adds some items in the unanimously reported Sarbanes bill.

Mr. COX. Mr. Speaker, will the gentleman yield?

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

Mr. COX. Mr. Speaker, as a conferee, I certainly would urge, and I believe it is the general intent of all of the conferees in the House to urge, as the House position in this conference when it comes to criminal changes, criminal law changes, to urge the House-passed bill be included in the conference report.

Were we to adopt this motion to instruct, we would undermine that position of the House. We would be required to take the much weaker Senate provisions.

Mr. CONYERS. Mr. Speaker, all we want to do is add these four recommendations to the two bills. We are not diluting anything. There is no dilution in here. I just want the gentleman to understand what is going to conference and what it is we are giving instructions on.

Mr. COX. Mr. Speaker, if the gentleman will continue to yield, the dilution is moving from the House position of 20 years maximum sentence for shredding of documents and for obstruction of justice to 10 years.

Mr. CONYERS. Mr. Speaker, reclaiming my time, no, what we are dealing with is document retention. We deal with audit review, statute of limitations, whistleblower protection, and sentencing enhancement. If the gentleman from California (Mr. COX) is confused on this, there may be some other Members that are not clear on this.

We are talking about document retention, statute of limitations, whistleblower protection, and sentencing enhancement only. We are not reducing any time for shredding or anything else.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I apologize for attempting to create a partisan approach to dealing with a very real problem.

I think all of us are intending to make a good bill better. But one of the things we have to be cautious about is in examining the Senate bill which has been brought over is to be reminded that article I, section 7 of the Constitution says, ''All bills for raising revenue shall originate in the House of Representatives.''

Referring back to the opening of the 102nd Congress in which the CONGRESSIONAL RECORD reflected, and I will

have this made a part of the RECORD at the appropriate time, ''jurisdictional concepts related to clause 5(b) of rule XXI.''

This is an attempt to create a systematic approach: ''In order to provide guidance concerning the referral of bills to assist committees in staying within their appropriate jurisdictions under rule X, to assist committees without jurisdiction overtax or revenue measures, it should be emphasized that the constitutional prerogative of the House to originate revenue measures will continue to be viewed broadly to include any meaningful revenue proposal that the Senate may attempt to originate.''

I would tell the gentleman in reviewing the Sarbanes bill, especially in terms of the scope of the board under section 108 on page 61 and the requirement that the fees be raised necessary to meet the needs of the board, when we take those two provisions along with several others, there is no narrowly defined board which would produce narrowly defined fees which could meet the test of fees.

When we have a broadly based, loosely determined jurisdiction of a board and a commitment that mandatory fees cover all of those activities, we begin to slip into the area Speaker FOLEY rightly referred to as broadly to include any revenue proposals.

The constitutional and institutional prerogative of the House I would hope everyone would want to maintain. We do not want to delay producing this product, given the commitment of the chairman on a very tight time line. We just want to make note of the fact that we believe there is a possibility of this violation. As this bill goes to committee, I understand that the Committee on Ways and Means will be conferees. We will work with everyone to make sure that the fees that are called fees in the Senate truly are fees that do not violate the revenue provision and/or we will work together to produce a product which the House participates in, protecting our constitutional prerogative to generate revenue. The goal is not to stop progress, but to make sure that it is done correctly.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I heard this morning that the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, had contemplating issuing what is known as a ''blue slip.'' That is a document that would have precluded the House from going to conference with the Senate on the Senate-passed bill on the grounds that it had violated a constitutional prerogative. I disagree with his interpretation, but I am pleased he realized if he did proceed on the course that he outlined this morning, the issuance of his blue slip would have caused thousands of pink slips across America.

□ 1745

However, my primary concern now that he has not exercised what he intended to is what will happen when we go to conference because the chairman of the conference committee has publicly said within the past several days that what we need is a cooling-off period, a cooling-off period. Rather than expeditious action, he has publicly called for, it has been printed in the paper, a cooling-off period. We need action. We need action before we recess. We are not cool right now. We are hot. We want action while we are hot because that is when we can get a tough law on the books. We do not need time to cool off. We need to pass a tough bill and send it to President Bush and he will sign whatever we send to his desk and we know that.

Let us make it good and tough.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. LAFALCE. On your time.

Mr. THOMAS. He has not dropped the gavel, so I assume there is still time on your time.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Does the gentleman from New York yield back the time?

Mr. LAFALCE. Yes, to the gentleman from Michigan.

Mr. THOMAS. So the gentleman voluntarily removes the time.

Mr. LAFALCE. I would be pleased to answer any questions on your time.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I was not interested in yielding to ask the gentleman a question but merely to clarify that the gentleman is adept at putting words in people's mouths. I did not say that I was going to blue-slip it. At no time did I say I was going to blue-slip it. The determination was whether or not it was blue-slippable, and those are two entirely different things, in an attempt to create an appearance that we were slowing the process down. All I wanted to do was make sure that constitutionally and institutionally we did it correctly. I would assume that would be in the interest of all Members of the House, in fact, anyone who raised their hands and swore to uphold the Constitution.

I thank the gentleman for yielding the time.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington (Mr. INSLEE).

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

Mr. INSLEE. Mr. Speaker, I think one thing that we all know about all Americans of whatever party today is that they do not want weak tea, they want strong medicine to deal with this economic crisis. They do not want passivity. They want action. The majority party is giving them nothing but delay and inaction. Did the majority party just pass a 97–0 vote in the Senate? No. Will they accept this substantive amendment to give instructions to the committee? No.

But let me tell you what the majority party leadership did 5 days ago. I read about this in the newspaper today. The leadership of the Committee on Energy and Commerce in the midst of this economic crisis had time to send a letter to the Public Broadcasting System to complain about the introduction of a new Muppet character. It was not the gentleman from Ohio (Mr. OXLEY), of course, but the chair of another committee. These majority party Members did not think it was right to have a new Muppet that had HIV. They thought that was a problem they had to deal with.

Well, America wants an answer to this question. If the majority party can stand up to Sesame Street, why will you not stand up to Wall Street? If you will deal with the Cookie Monster, why will you not deal effectively with the moral monsters who are stealing America's retirement accounts? That is what America wants to know. It is not enough simply to say you are going to increase jail time, and I will tell you why not. When we were dealing with the terrorist threat to our air system, did we think our job was done by just saying everybody that blows up an airplane gets 50 years instead of 25 years? Did we consider our job done when we did that? No. We developed a security system to check to make sure terrorists do not get into our airplanes, and now we need a security system to make sure fiscal terrorists are not taking over the boardroom.

You need to join with us and stop messing around with Sesame Street and start taking on Wall Street to save people's retirement incomes.

Mr. OXLEY. Mr. Speaker, may I inquire of the time remaining on both sides?

The SPEAKER pro tempore. The gentleman from Ohio (Mr. OXLEY) has 18½ minutes and the gentleman from Michigan (Mr. CONYERS) has 9½ minutes.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE), a valuable member of the Committee on Financial Services.

Mr. CASTLE. Mr. Speaker, I rise a little bit perplexed about the motion to instruct conferees in that it appears to me that the Republican-passed legislation calls for stricter penalties from a group which is asking for stronger measures which does not seem quite right.

But that is not really what I want to speak to right now. What I want to speak to is the fact that the Senate, in my judgment, has adopted a very good piece of legislation, at least as I know it, the Sarbanes legislation. But there are some questions about that that I certainly have and that I think conferees would have. The House has also passed, in my judgment, a very good piece of legislation, frankly not that

dissimilar from the Sarbanes legislation, and it also has provisions in it that I think should be looked at. I believe that the right way to do this is to go to conference, not to instruct the conferees as to what to do. Let them make their decisions on the timetable as outlined by the chairman of the Committee on Financial Services here before us tonight to look at some of the House issues as well as some of the Senate issues. The real-time disclosure, in my judgment, is a real issue. The FAIR account to return money to investors which the gentleman from Louisiana (Mr. BAKER) got done, I think, is very significant. This whole issue of the criminal penalties we are talking about right now is very significant. I believe that we can do this.

I believe we can adopt good legislation with good committee review, with good staff review, something I agree with that has been said on the other side, the President will sign this, and when he does, I believe we will have legislation which the investors in America can look to and say, this will help us make our decisions about the future of corporate America.

Mr. CONYERS. Mr. Speaker, the manager on the other side has twice as much time remaining as I do.

Mr. OXLEY. Is that a good thing or a bad thing?

Mr. Speaker, I am pleased to yield 2½ minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, this morning I asked Chairman Greenspan a question which is directly relevant to this motion to instruct. My question was:

''Do you think that increasing the ability for individuals to sue corporations for inaccuracies in their statements is a proper goal for this kind of legislation?''

I am quoting now from Mr. GREENspan's response. He said:

I think not. I don't see that has any particular economic advantage. The issue is a technical one and a complex one and should be really under the aegis of the Securities and Exchange Commission. And they should be taking the actions which are required to redress inaccuracies, mistakes, malfeasance and the like. I don't think you gain anything by increasing the ability to sue the company. Because remember that it is shareholders suing other shareholders. That is what it is.

Republicans are committed to strengthening this legislation in conference by including real-time disclosures, adding a provision to ensure that investors and not trial lawyers are the beneficiaries of funds recovered from corporate malfeasance and adding tougher penalties to corporate fraud.

If the Senate had not dragged its feet, this bill would have been done months ago. But for whatever cynical reasons they have, the Senate chose to play politics with this issue. And for the same cynical reasons, the Democratic leadership is threatening to drag out any conference for 2 months.

Mr. Speaker, I ask my colleagues on both sides of this aisle to join us in voting against this motion to instruct and for a stronger corporate accountability law.

Mr. CONYERS. Mr. Speaker, the manager on the other side still has twice as much time left as we do.

Mr. OXLEY. Then we will continue to plod on.

Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Louisiana (Mr. BAKER), the distinguished chairman of the Subcommittee on Capital Markets.

Mr. BAKER. I thank the gentleman for yielding me this time.

Mr. Speaker, this is a very important matter that the House must consider this evening and I do appreciate the recommendations the gentleman has made in his motion to instruct. All of those issues will certainly be the subject of conversation during the course of this important conference.

I am surprised that the motion to instruct did not include the specific directions to adopt the provisions contained in the Senate-passed bill, the Sarbanes bill, since it has been viewed by so many as being the answer to the problem. But as is always the case, no legislative product is the perfect answer for all issues. I respectfully suggest that the Sarbanes bill is no different. There is work to do.

For example, the Sarbanes bill does not make provision with regard to real-time material fact disclosure. What does that mean? That means if the corporate manager knows it and it is something that affects shareholder value and he does not report it until the 90-day quarterly earnings statement, you have terrific volatility in the markets and prices go up and down. We unfortunately are seeing that to great extreme today. That is why companies all too often file what they call pro forma returns. They get something out early that is not really a total disclosure, but it is something to help defuse the volatility of the quarterly earnings report.

Real-time material disclosure says if you know it, you got to tell it. If you know it and you do not tell it, that is a criminal penalty. If you did not know it but should have, that is a civil penalty. We want to talk about what real-time material fact disclosure means. That will be the subject of the conference, because that is in the House-passed bill. But what has not been in either bill, and unfortunately I did not see in the motion to instruct, is to do something to actually help the defrauded investor. It troubles me to get home in the evening, turn on the TV and see some millionaire in Mississippi with an $18 million mansion who has run a corporation into the ground and we cannot get the house because he built it with shareholder-defrauded funds. We want to include a fair fund that says within the SEC all fines, all penalties, everything that is disgorged, that means taken back from the guys who have gotten ill-gotten gains, put it into an account and then let the SEC be bound to distribute 90 percent or more of it to the defrauded investor. With all due respect, we are not into a transfer of wealth. We do not want to take corporate wealth and give it to trial lawyer wealth by simply creating new causes of action while the shareholder sits on the sidelines and watches assets be spent in the courts while the fellow is down in the Caribbean enjoying a $150-million-a-year lifestyle. We need to fix that, and we are going to.

In summary, the gentleman from California (Mr. COX) talked about the fact that the House-passed criminal penalties for inappropriate conduct are twice what are now suggested by the motion to instruct. If you want to be tough on criminals, if you want to get the money back and you want to give information to investors, please defeat this motion to instruct.

Mr. CONYERS. Mr. Speaker, the other side now has 12 minutes remaining and I have 9. I would recommend that they continue to carry on the debate.

Mr. OXLEY. Mr. Speaker, I think the gentleman from Michigan has several speakers available in the bullpen. We are prepared to listen to their dulcet tones.

The SPEAKER pro tempore. Does the gentleman from Michigan wish to yield time? Who wishes to yield time?

Mr. OXLEY. Mr. Speaker, we have no further speakers at this time. I would ask the gentleman if he is prepared to yield back the balance of his time and we could proceed to a vote.

Mr. CONYERS. Mr. Speaker, I am very pleased to yield 4 minutes to the gentleman from Michigan (Mr. DINGELL), the dean of the House.

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

Mr. DINGELL. Mr. Speaker, I have heard the name Alan Greenspan mentioned on several occasions in connection with this. This is what Alan had to say yesterday:

''Even a small increase in the likelihood of large, possibly criminal penalties for egregious misbehavior of CEOs can have profoundly important effects on all aspects of corporate governance because the fulcrum of governance is the chief executive officer.''

What he is saying there is, put them in jail, they will understand. The problem here is that the bill that the House has passed has nothing on criminal penalties but the bill passed yesterday does. The motion to instruct takes care of that problem.

I think we ought to adopt the Senate bill because the Senate bill is a good bill. The House bill is nothing. It is pablum. On the 30th of June, the New York Times warned that there is a staggering rush of corporate debacles and that they are raising a disturbing question: Can capitalism survive the capitalists themselves? It should be noted the market has fallen, it should be noted the dollar is weaker, all of which, experts say, is related to the behavior of Global Crossing, Enron,

Adelphia, WorldCom and others. We need strong medicine, not a placebo.

The Washington Post has pointed out that a distinguished member of this body is punting because apparently my friends on the other side are not real anxious to pass strong bills and strong legislation like the Senate. The House-passed bill purports to set up a lot of things, including a regulatory board, to oversee accountants, but it really does not mean anything because it really does not do anything.

□ 1800

The House-passed bill does not require an outright halt of the peddling of lucrative consulting services to audit clients and the conflicts that ensue.

The House-passed bill does nothing about the revolving door between auditors and clients.

The House-passed bill ducks many important issues such as the conflicts of interest between Wall Street analysts and credit-rating agencies, by relegating them to, guess what? Studies. The bill is replete with studies, but there is no strong Federal policy direction here.

Let us look at what the Senate bill does. It improves the timeliness, quality, and transparency of financial reporting. It creates an independent Public Company Accounting Oversight Board to strengthen the regulation of, guess who? The accountants, who certainly need regulation, because there has been more misbehavior there than there has been outside of a red light district. It would ban consulting services that clearly compromise the independence of accountants and auditors. It would enhance the accounting standards process and provide independent funding for the FASB. It would increase accountability of corporate officers and boards of directors. It would require objectivity and independence by securities analysts, and it would enhance SEC resources and authority. It would increase criminal penalties for corporate securities frauds that figured in the recent chain of debacles.

Mr. Speaker, it is time we passed strong legislation to stop the misbehavior in the corporate behavior and in the accounting profession that is shaking the faith of the American people and that is raising real questions about the viability of our securities markets and the well-being of capitalism in this country.

Vote for the motion to instruct and vote for a strong bill. We have had enough nonsense in this place.

On June 30, 2002, the New York Times warned that the ''staggering rush of corporate debacles is raising a disturbing question: can capitalism survive the capitalists themselves?''

Confidence in U.S. capitalism has been dealt a severe blow. U.S. investors and foreign investors are fleeing stocks in droves.

From Enron to Global Crossing, Adelphia to WorldCom, and many more examples, companies lied about their performance, the watchdogs slept or were complicit, and investors and employees paid a dear price.

To cure this problem, we need strong medicine, not a placebo.

On April 24, 2002, a Washington Post editorial entitled ''Mr. Oxley Punts'' lambasted the House bill for taking ''half-steps and side-steps.''

The House-passed bill purports to step up a new regulatory board to oversee and discipline accountants, which everybody agrees is needed, but the bill includes no details on the board's staffing and budget and provides inadequate disciplinary authority.

The House-passed bill stops short of requiring an outright halt to the peddling of lucrative consulting services to audit clients and the conflicts that ensue.

The House-passed bill also says nothing about the revolving door between auditors and their clients.

The House-passed bill ducks many important issues, such as the conflicts of interest among Wall Street analysts and credit rating agencies, by allegating them to studies. The bill is replete with studies rather than the strong Congressional policy direction that is called for.

I therefore urge the House to accept the Sarbanes bill.

It would: Improve the timeliness, quality, and transparency of financial reporting; create an independent Public Company Accounting Oversight Board to strengthen regulation of, and where appropriate disciplinary actions against, firms that audit public companies; ban the consulting services that clearly compromise auditor independence; enhance the accounting standards setting process and provide independent funding for FASB; increase the accountability of corporate officers and boards of directors; require objectivity and independence by securities analysts; enhance SEC resources and authority; and increase criminal penalities for the corporate and securities frauds that figured in the recent chain of debacles.

This morning's Washington Post reports on the front page for all the world to see that ''House Republicans say they will try to delay, and likely dilute, some of the proposed changes.''

Shame on the GOP! And shame on the House if decent Members in this body allow such a travesty to occur.

[From the Washington Post, April 24, 2002]

MR. OXLEY PUNTS

The House is due to vote today on a package of post-Enron reforms prepared by Rep. Michael Oxley (R-Ohio), chairman of the Financial Services Committee. The bill is a troubling sign of how easily the momentum for reform can be dissipated. Though it purports to deal with many of the audit reforms discussed during dozens of congressional hearings since January, it actually pulls its punches. Democrats will get a chance to offer some better provisions in the House today, but nobody expects them to pass. It will be up to the Senate, if it can ever terminate its interminable debates on energy, to produce a stronger bill.

The Oxley bill purports to set up a new regulatory board to oversee and discipline auditors, which everybody agrees is needed. But it would not give this body powers of subpoena, which would undermine its authority; and it would allow auditors to fill some of the board's positions, which could undermine its independence. The details of the new board would be left to the Securities and Exchange Commission, which would have to decide among other things how the new body would be funded. Given the SEC's vulnerability to industry lobbying, there is a danger that the result will fall short of what's needed.

The Oxley bill takes other half-steps and side-steps. It directs the SEC to prohibit auditors from performing certain types of consulting services for their clients, but it stops short of requiring an outright halt to consulting and the conflicts of interest that ensue. The bill says nothing about the revolving door between auditors and their clients—Enron, for example hired several Arthur Andersen auditors—even though auditors who are angling for jobs from their customers are unlikely to show much independence from them. The bill is also silent on the rotation of audit firms. If an auditor knew that, after a few years, a different outside auditor would scrutinize its efforts, this would create a strong incentive to keep the numbers honest.

The Oxley bill does at least boost the SEC's budget substantially, and it has the right mood music. But given the outrage that Congress has expressed about the Enron scandal, that is a weak effort. Just this week, Enron announced that it had discovered a further $14 billion worth of assets in its balance sheet that don't really exist after all, and it confessed that a ''material portion'' of this overstatement was due to accounting irregularities. This kind of confession further undermines investors' trust in financial disclosures. Congress needs to restore that trust with tough legislation. Perhaps the Senate can deliver if the House won't.

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

I am constantly amazed. The minority party offered a motion to instruct that basically tells the House we ought to accept lower penalties instead of the higher penalties that this House passed just this week. I am frankly stunned at that. I want to make it clear that House Republicans support a much stronger bill and reject the kind of efforts to weaken this bill that our friends on the other side have projected.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I rise in opposition to the motion to instruct conferees.

This motion would hinder the House's ability to have a meaningful conference with the Senate on H.R. 3763. The Senate does not equate to perfection. We have two bodies here, and this is an important issue.

Mr. Speaker, it is also important that we have a conference on this important bill so that we have the ability to negotiate on all the issues contained in this bill. It is vital to protecting investors and creating the best legislation we can possibly bring to the American people.

For example, there are some provisions in the House-passed version that are not in the Senate version that I believe will increase investor protections, transparency, and improve disclosure. The gentleman from Ohio (Chairman OXLEY) and the gentleman from Louisiana (Chairman BAKER) have done a good job, and a lot of time has been put into this.

But let me just say something in addition to what the gentleman from Ohio (Chairman OXLEY) just mentioned. I think this is very important for anybody who has any doubt. We had a 391 to 28 vote here. Mr. Speaker, H.R. 5118, in the Senate, increased the penalties for fraud to a maximum of 10 years. The House increases the penalties for mail and wire fraud from 5 to 20 years and creates a new securities fraud section and carries a maximum penalty of 25; 25 versus 10. I think we are a little bit better, obviously.

The Senate, the maximum penalty for destruction of records and documents is 10 years. The House strengthens laws that criminalize document shredding and other forms of obstruction of justice and provides a maximum of 20 years. The Senate 10, House 0.

Under the Senate version, the maximum penalty a corporate officer would face is a $1 million fine and 10 years in prison. The House, $5 million and 20 years. One and 10; 5 and 20.

The last provision I wanted to mention does not change the current penalties of a maximum fine of $1 million and 10 years in prison; corporations would still only face a maximum fine of $2.5 million. The House increases the criminal penalties for those who file false statements with the Securities and Exchange Commission to a maximum penalty of $5 million and 20 years; 1 and 10 in the Senate, 5 and 20 in the House.

It is so clear, and the rhetoric is unbelievable here tonight. We are the strong version. We are the version that is right for the American people. Going to a conference does not do anything except help us to get these tough penalties to protect the American people and to make this a better bill.

I surely urge that people rise in opposition to this conference report.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, passing the Senate bill is but the first step. Hopefully, the conferees will go beyond even the Senate bill or will take up new legislation in the Committee on Financial Services.

The Senate bill contains the provisions that reauthorize the SEC and contains provisions that talk about expensing stock options. We can no longer leave this issue to the Financial Accounting Standards Board that acknowledged long ago that it was best to expense stock options and then refused to make that mandatory. Nor can we allow the recent situation where consumers can compare Coke and Pepsi, but investors cannot, because the two similar companies use different methods of accounting for stock options.

Further, in reauthorizing the SEC, we must demand that they actually read the filings of the largest 1,000 companies, something that their chairman refuses to even consider because he has adopted a ''hear no evil, see no evil'' approach.

Mr. Speaker, we need to go far beyond even the Senate bill.

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

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I support the motion to go to conference because it affirms the supremacy of the Leahy provisions. The President asked Congress to get him a bill before the August recess. We could easily get him a good bill by the weekend if we took up and passed the Sarbanes bill.

The problems facing corporate America are extremely serious; and I think the head of Goldman Sachs, Henry Paulson, put it well when he said accounting at Enron ''bore little or no relationship to economic reality.''

The Sarbanes bill will restore the credibility of the accounting industry by creating a truly independent accounting oversight board that will not be dominated by the industry. The Sarbanes bill will not solve all of corporate America's problems overnight, but it will send a strong message to investors that Congress did not succumb to special interests but, rather, worked very hard at the public interest in building in more accountability.

Mr. Speaker, I urge my colleagues to support the motion to instruct, and I hope that we will report back to the floor the Sarbanes bill.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Mr. Speaker, I would like to engage the gentleman from California (Mr. COX) on the question of the criminal penalties issue which seems to be still in some contention.

As I understand the Sensenbrenner bill we passed in the House on yesterday, there was a provision that required the CEO of a corporation to certify the accuracy of financial statements and also to certify the accuracy of reports to the Securities and Exchange Commission.

In both of those cases, it was my understanding that the penalties that were adopted in that matter dramatically exceeded the prior existing criminal penalties for misrepresentation.

Is that the gentleman's understanding?

Mr. COX. Mr. Speaker, will the gentleman yield?

Mr. BAKER. I yield to the gentleman from California.

Mr. COX. Mr. Speaker, that is certainly correct.

Mr. BAKER. It was also my understanding that there were additional personal liabilities associated with underperformance or inappropriate conduct that either did not exist in prior law or that the penalties associated with that conduct were dramatically increased.

Is the gentleman familiar with those provisions, and is that accurate?

Mr. COX. Mr. Speaker, I am certainly familiar with those provisions, and that is accurate as well. The gentleman might also point out that not only were the provisions of H.R. 5113 adopted almost unanimously by this House just a few days ago, not only are those provisions much tougher than existing law, but they are significantly tougher than comparable provisions in the Senate legislation.

Mr. BAKER. Mr. Speaker, may I further inquire of the gentleman, once an individual is found to have violated or has committed criminal conduct and found guilty, that the consequence of that activity is to be banned from holding even a corporate or board position for the individual's life?

Mr. COX. That is correct.

Mr. BAKER. Can the gentleman tell me how we could go further in protecting shareholders and constituents with any additional penalties or assessments that would be appropriate in light of the egregious examples we have seen in the marketplace?

Mr. COX. Well, certainly the scope of this legislation on both the House and the Senate side gives ample opportunity to do other things, to reinforce these criminal law provisions; but the motion to instruct that is before us is addressed only to the criminal law provision.

Mr. BAKER. Mr. Speaker, I appreciate the gentleman's explanation. It is clear to me we have taken a very bold step, and I cannot understand anyone who would want to reduce these provisions.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from Ohio (Mr. OXLEY) has 8 minutes remaining, and the gentleman from Michigan (Mr. CONYERS) has 3½ minutes remaining and the right to close.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. ROYCE), our good friend and a valuable member of the Committee on Financial Services.

Mr. ROYCE. Mr. Speaker, one of the points I was going to make was that prior to the passage of our CAARTA bill, during a Committee on Financial Services meeting, I asked the SEC chairman if the SEC had all of the tools that it needed to return the ill-gotten gains from dishonest executives to the shareholders of these companies. His response was that it would be helpful if Congress were to include language that made it clear that it is Congress's intent that the SEC have the power to return these stolen funds to the shareholders.

Now, the Federal Account for Investor Restitution language, as proposed by the gentleman from Louisiana (Mr. BAKER), would effectively accomplish this task.

Now, currently, the Securities and Exchange Commission has the power to disgorge these funds from corrupt managers. However, the funds rarely make

it back to the shareholders who deserve them. They are currently distributed in an ad hoc fashion. I would say less than 20 percent are returned to the shareholders today, with the rest going to the plaintiffs, attorneys' fees, and to the Treasury's general revenue.

So this proposal that is offered by the gentleman from Louisiana (Mr. BAKER) to the conference would ensure that all of these ill-gotten gains be returned to the people who deserve them, and that is the individual shareholders and pension investors who were bilked out of their money through corporate malfeasance. It is another reason why we need to move forward with that conference.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I want to commend my colleagues on both sides of the aisle for the work that we have done in this House over the last several weeks to move to the position that we find ourselves in today, going to conference with the Senate on this very important legislation. The President is urging us to act quickly, and we intend to do so. It is our intention on the majority side, and I think it is the intention also on the minority side, to get a bill as soon as possible, certainly by the end of the next week when we adjourn for our August recess.

To that end, in the House of Representatives we have enacted not one, but two bills addressed to this subject; indeed, three bills, because we have included pension reform as well. Several months ago we responded to the President's call for 10 major reforms addressed to corporate wrongdoing. We waited quite a long time for a response from the other body, but now we have it and we are moving quickly.

It should be the position of this House when we go to conference to back the toughest criminal penalties that we can impose as a Nation on those who would undermine our markets, on those who would steal from investors.

□ 1815

That is what this House voted to do just a few days ago. H.R. 5118, produced by the Committee on the Judiciary, which ought to, in our standing committee structure, write criminal laws, that bill passed 391 to 28; and it should be the position of this House. We all voted for it.

I am very puzzled that we would now have a motion to instruct that says, abandon the House position articulated by all of us here on the floor, produced in a quality fashion by the ranking member on the Committee on the Judiciary, who is here with us on the floor today, and by the gentleman from Wisconsin (Chairman SENSENBRENNER); abandon those positions, those tough positions, and instead insert essentially identical positions in the House bill that differ only in that they have half the penalty that we approved here earlier this week.

There is not much to this motion to instruct. It says that ''the House should recede from disagreement with section 802, section 804, section 805, and section 806 of the Senate bill.''

Section 802 of the Senate bill concerns criminal penalties for shredding documents, and the penalty is very clearly stated in section 802 of the Senate bill. It is 10 years. The provision in our House-passed bill, a bill that I think the ranking member on the Committee on the Judiciary takes pride in, that I take pride in, I voted for it, I supported it here on the floor, that identical provision in the House-passed bill is 20 years. That should be our position in conference.

The same with obstruction of justice. The same with all of the things covered in this motion to instruct, which are addressed essentially to the criminal features only of this otherwise broad legislation.

I strongly oppose, therefore, this motion to instruct and urge my colleagues to do likewise.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 1 minute to the distinguished gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, there has never been a period in U.S. history when the economy grew and the stock market shrank at the same time. They have always gone hand in hand.

I think our government must inject a sense of calm into our capital markets, and it is going to take more than just cheerleading. It is actually going to require Congress to pass legislation that not only removes the ability for the greedy to cut corners and defraud investors, but make sure they go to prison, just like any other thief. I think we are on the right track.

Four months ago, the gentleman from New York (Mr. LAFALCE) offered a substitute to the accounting reform bill in the House that sought to do many of the things the other body has agreed to do unanimously. Four months ago, the proposal of the gentleman from New York (Mr. LAFALCE) did not get a single vote from our colleagues on the other side. But yesterday morning, most Members voted for a bill that would send someone to prison for 25 years for securities fraud, and I think that is good. I think we are on the right path.

But the Members know and I know that tougher criminal penalties for wrongdoing are not the solutions to the market's deficiencies. So let us get serious and let us make it nearly impossible to pass fraudulent information along to investors. Let us have more transparencies. Let us clean up the mess. Let us get a bill to the President next week and restore the trust and confidence of the public in the markets.

Mr. OXLEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this has been an enlightening debate. Let me just review the bidding, if I can. Back when Enron became a household word, and all of the scandals that developed, the Committee on Financial Services was the first committee last year in December to hold a hearing on the Enron scandal.

Our committee, the committee of jurisdiction, passed strong legislation, the CAARTA legislation, Corporate and Auditing Accountability, Responsibility, and Transparency Act. It passed in the committee with a strong bipartisan vote, dealing with corporate scandals, dealing with accounting irregularities, directing our efforts at the real problem while preserving the ability of the marketplace to work very effectively.

Then the bill came to the floor. It passed by a large margin, 334 to 90; 119 Democrats wisely voted for that piece of legislation. We waited and we waited and we waited for the other body to act, almost 3 months. Finally, when the WorldCom bombshell hit, the Senate finally decided to act, and act they did.

In large measure, the Sarbanes bill and our bill are very, very similar. I applaud Senator SARBANES, Chairman SARBANES, for his hard work and his dedication. We are now in a process where we all ought to be, and that is to reconcile the differences between the House and Senate. That is what we do here. That is what legislators do.

Those who would say we need to take the Senate bill lock, stock, and barrel and not worry about any of the potential problems in that bill, I think, denigrate our committee and the legislative process.

So we are here to say, let us do regular order. Let us get to a conference. We can do this. The President said, let us get this done before the August recess. The Speaker said, get this done before the August recess. We are going to get this done before the August recess; and we are going to have a good, bipartisan bill that we can take to the President for his signature and send a strong signal to the American people and the investing public that the Congress has done everything possible to restore confidence to our public markets.

We should take a great deal of pride on both sides of the aisle for the way that we have addressed this issue. I have been proud to work with my good friend, the gentleman from New York (Mr. LAFALCE), the ranking member. We have had our differences of opinion; but at the same time, he has been a very strong advocate for doing the kind of reform necessary. I salute him in his last few months here in this great body.

We are on the verge of a very positive approach to the scandals that have enveloped corporate America. Let us move on to the conference. Let us reject this unwise motion and move to a conference in good order.

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

Mr. CONYERS. Mr. Speaker, I am delighted to yield 1 minute to the gentlewoman from California (Ms. WATERS), a member of the Committee on the Judiciary.

Ms. WATERS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I do not delight in having to reveal that the Chairs of both the Committee on Financial Services and the Committee on the Judiciary just did not do their job.

My friend on the other side of the aisle, the gentleman from Ohio (Mr. OXLEY), is a good chairman; and I suppose if he had had the support of his Republican conference perhaps he could have had a stronger bill; but the bill that we passed was just too week.

The gentleman from New York (Mr. LAFALCE) never had an opportunity in the Committee on Financial Services to really get his amendments set forth in the way that he would like. The gentleman from Wisconsin (Mr. SENSENBRENNER) did not even take up the bill that the gentleman from Michigan (Mr. CONYERS) was trying so desperately, begging him to take up, so we could have a stronger response to corporate crime.

Now we have an opportunity to instruct the conferees. The Sensenbrenner bill that surfaced yesterday does not do what we need to have done. It is not even in conference. As a matter of fact, they would want us to believe that it is tougher because they have some tougher sentencing, but all of the issues that have been identified here in the Conyers motion are what we all need to embrace. Unless we do it, we are not sincere about doing something about corporate crime.

Mr. CONYERS. Mr. Speaker, I yield the balance of my time to our distinguished colleague, the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, vote for this motion. If the Republican bill were an SEC filing, it almost would be actionable under the antifraud provisions of the Federal securities laws. It is a fraud. It masquerades as an investor protection bill when, in actuality, it is an accountant and corporate wrongdoer protection act.

What does it not have in it? Well, it does not have an accounting board that is controlled by independent auditors. It is all controlled by the accounting industry, just as the Securities and Exchange Commission is now controlled by the accounting industry.

It does not separate auditing from consulting when an auditing firm, an accounting firm, goes inside to audit a firm.

It does not separate investment banking from analyst recommendations in terms of the compensation which is received by the analyst, a conflict of interest that is creating all of the problems.

What does this motion to recommit say? It says we should extend from 3 years to 5 years the time that people have to go in and do something about fraud, because we are now talking about fraud committed in 1998 and 1999, and the statute of limitations has run. We must extend it out to 5 years. Ordinary investors are only finding out now how valueless their investments were.

In addition, the auditors must keep the work paper for 5 years so people can bring action against them, whether it be criminal or civil.

Vote for this meaningful motion if Members want to protect American investors against further fraud in the American marketplace.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan (Mr. CONYERS).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CONYERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 207, nays 218, not voting 9, as follows:

[Roll No. 313]

YEAS—207

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blumenauer
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NAYS—218

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—9

Blagojevich	Lantos	McHugh
Bonior	Lipinski	Nadler
Ganske	Mascara	Traficant

□ 1849

Messrs. MCINNIS, SIMMONS and BASS changed their vote from ''yea'' to ''nay.''

Mrs. TAUSCHER, Ms. HOOLEY of Oregon and Ms. WATERS changed their vote from ''nay'' to ''yea.''

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Without objection, the Chair appoints the following conferees:

From the Committee on Financial Services, for consideration of the House bill and the Senate amendments, and modifications committed to conference: Messrs. OXLEY, BAKER, ROYCE, NEY, Mrs. KELLY, Messrs. COX, LAFALCE, FRANK, KANJORSKI and Ms. WATERS.

Provided that Mr. SHOWS is appointed in lieu of Ms. WATERS for consideration of section 11 of the House bill and section 305 of the Senate amendment, and modifications committed to conference.

From the Committee on Education and the Workforce, for consideration of sections 306 and 904 of the Senate amendment, and modifications committed to conference: Messrs. BOEHNER, JOHNSON of Texas and GEORGE MILLER of California.

From the Committee on Energy and Commerce, for consideration of sections 108 and 109 of the Senate amendment, and modifications committed to conference: Messrs. TAUZIN, GREENWOOD and DINGELL.

From the Committee on the Judiciary, for consideration of section 105 and titles 8 and 9 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas and CONYERS.

From the Committee on Ways and Means, for consideration of section 109 of the Senate amendment, and modifications committed to conference: Messrs. THOMAS, MCCRERY and RANGEL.

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore. Pursuant to House Resolution 483 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5093.

□ 1852

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and, for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, a request for a recorded vote on amendment No. 1 by the gentleman from Oregon (Mr. BLUMENAUER) had been postponed, and the bill was open from page 126, line 15 through page 135, line 13.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 16 by Mr. TANCREDO of Colorado;

Amendment No. 2 by Mrs. CAPPS of California;

Amendment No. 1 by Mr. BLUMENAUER of Oregon.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 16 OFFERED BY MR. TANCREDO

The CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 16 offered by the gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 123, noes 300, not voting 11, as follows:

[Roll No. 314]

AYES—123

Aderholt	Diaz-Balart	King (NY)
Akin	Doolittle	Kingston
Armey	Dreier	Lewis (KY)
Bachus	Duncan	Linder
Barr	Emerson	Lucas (KY)
Bartlett	Everett	Manzullo
Barton	Flake	McCrery
Bilirakis	Forbes	McInnis
Blunt	Goode	Miller, Gary
Boehner	Goodlatte	Miller, Jeff
Boozman	Graves	Myrick
Brady (TX)	Green (WI)	Ney
Bryant	Gutknecht	Norwood
Burton	Hall (TX)	Osborne
Buyer	Hansen	Otter
Callahan	Hastings (WA)	Paul
Cannon	Hayes	Pence
Cantor	Hayworth	Petri
Chabot	Hefley	Pickering
Chambliss	Herger	Pitts
Coble	Hilleary	Pombo
Combest	Hostettler	Putnam
Cooksey	Hulshof	Radanovich
Cox	Hunter	Rehberg
Crane	Hyde	Riley
Cubin	Istook	Rohrabacher
Culberson	Jenkins	Royce
Cunningham	Johnson, Sam	Ryan (WI)
Davis, Jo Ann	Jones (NC)	Ryun (KS)
Deal	Keller	Schaffer
DeLay	Kennedy (MN)	Sensenbrenner
DeMint	Kerns	Sessions
Shadegg	Stearns	Toomey
Sherwood	Stump	Vitter
Shimkus	Sullivan	Watkins (OK)
Shows	Tancredo	Weldon (FL)
Shuster	Tauzin	Weller
Skelton	Taylor (MS)	Wicker
Smith (NJ)	Taylor (NC)	Wilson (NM)
Smith (TX)	Thornberry	Wilson (SC)
Souder	Tiahrt	Young (AK)

NOES—300

Abercrombie	Frelinghuysen	McGovern
Ackerman	Frost	McIntyre
Allen	Gallegly	McKeon
Andrews	Ganske	McKinney
Baca	Gekas	McNulty
Baird	Gephardt	Meehan
Baker	Gibbons	Meek (FL)
Baldacci	Gilchrest	Meeks (NY)
Baldwin	Gillmor	Menendez
Ballenger	Gilman	Mica
Barcia	Gonzalez	Millender-McDonald
Barrett	Gordon	Miller, Dan
Bass	Goss	Miller, George
Becerra	Graham	Mink
Bentsen	Granger	Mollohan
Bereuter	Green (TX)	Moore
Berkley	Greenwood	Moran (KS)
Berman	Grucci	Moran (VA)
Berry	Gutierrez	Morella
Biggert	Hall (OH)	Murtha
Bishop	Harman	Napolitano
Blumenauer	Hart	Neal
Boehlert	Hastings (FL)	Nethercutt
Bonilla	Hill	Northup
Bono	Hilliard	Nussle
Borski	Hinchey	Oberstar
Boswell	Hinojosa	Obey
Boucher	Hobson	Olver
Boyd	Hoeffel	Ortiz
Brady (PA)	Hoekstra	Ose
Brown (FL)	Holden	Owens
Brown (OH)	Holt	Oxley
Brown (SC)	Honda	Pallone
Burr	Hooley	Pascrell
Calvert	Horn	Pastor
Camp	Houghton	Payne
Capito	Hoyer	Pelosi
Capps	Inslee	Peterson (MN)
Capuano	Isakson	Peterson (PA)
Cardin	Israel	Phelps
Carson (IN)	Issa	Platts
Carson (OK)	Jackson (IL)	Pomeroy
Castle	Jackson-Lee (TX)	Portman
Clay	Jefferson	Price (NC)
Clayton	John	Pryce (OH)
Clement	Johnson (IL)	Quinn
Clyburn	Johnson, E. B.	Rahall
Collins	Jones (OH)	Ramstad
Condit	Kanjorski	Rangel
Conyers	Kaptur	Regula
Costello	Kelly	Reyes
Coyne	Kennedy (RI)	Reynolds
Cramer	Kildee	Rivers
Crenshaw	Kilpatrick	Rodriguez
Crowley	Kind (WI)	Roemer
Cummings	Kirk	Rogers (KY)
Davis (CA)	Kleczka	Rogers (MI)
Davis (FL)	Knollenberg	Ros-Lehtinen
Davis (IL)	Kolbe	Ross
Davis, Tom	Kucinich	Rothman
DeFazio	LaHood	Roukema
DeGette	Lampson	Roybal-Allard
Delahunt	Langevin	Rush
DeLauro	Larsen (WA)	Sabo
Deutsch	Larson (CT)	Sanchez
Dicks	Latham	Sanders
Dingell	LaTourette	Sandlin
Doggett	Leach	Sawyer
Dooley	Lee	Saxton
Doyle	Levin	Schakowsky
Dunn	Lewis (CA)	Schiff
Edwards	Lewis (GA)	Schrock
Ehlers	LoBiondo	Scott
Ehrlich	Lofgren	Serrano
Engel	Lowey	Shaw
English	Lucas (OK)	Shays
Eshoo	Luther	Sherman
Etheridge	Lynch	Simmons
Evans	Maloney (CT)	Simpson
Farr	Maloney (NY)	Skeen
Fattah	Markey	Slaughter
Ferguson	Matheson	Smith (WA)
Filner	Matsui	Snyder
Fletcher	McCarthy (MO)	Solis
Foley	McCarthy (NY)	Spratt
Ford	McCollum	Stark
Fossella	McDermott	Stenholm
Frank		