Graves	Oberstar	Sweeney
Gutierrez	Sanders	Terry
Houghton	Serrano	Vitter
Jefferson	Snyder	Wexler
LaTourette	Stupak	
Mollohan	Sullivan	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OTTER) (during the vote). The Chair reminds Members there are 2 minutes remaining in this vote.

□ 1904

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GRAVES. Mr. Speaker, my flight was inevitably delayed leading to circumstances beyond my control. Therefore I was not able to be present for the record votes on Tuesday, March 4, 2003.

Had I been present I would have voted in the affirmative for: H. Res. 106—Congratulating Lutheran schools, students, parents, teachers, administrators, and congregations across the Nation for their ongoing contributions to education, and for other purposes; H. Con. Res. 54—Honoring Visiting Nurses Association; and H. Res. 111—Honoring the legacy of Fred Rogers and his dedication to creating a more compassionate, kind, and loving world for children and adults.

MAKING IN ORDER AT ANY TIME ON WEDNESDAY, MARCH 5, 2003, CONSIDERATION OF H.J. Res. 27, COMMENDING MEMBERS OF U.S. ARMED FORCES

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it be in order at any time on Wednesday, March 5, 2003, to consider in the House H.J. Res. 27; that the joint resolution be considered as read for amendment; that the joint resolution be debatable for 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services; and that the previous question be considered as ordered on the joint resolution to final passage without intervening motion.

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

There was no objection.

MAKING IN ORDER AT ANY TIME ON THURSDAY, MARCH 6, 2003, CONSIDERATION OF H.R. 13, MUSEUM AND LIBRARY SERVICES ACT OF 2003

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it be in order at any time without intervention of any point of order on Thursday, March 6, 2003, to consider in the House H.R. 13; that the bill be considered as read for amendment; that the bill be debatable for 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce; and that the previous question be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 332

Mr. BARRETT of South Carolina. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 332.

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

There was no objection.

THE BALANCE ACT OF 2003

(Ms. LOFGREN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LOFGREN. Mr. Speaker, a massive digital revolution is unfolding before our very eyes. Like most breakthroughs in the past, this revolution has provoked deep concern and suspicion within the entertainment industry. In response Congress enacted the Digital Millennium Copyright Act.

However, the law is flawed. It threatens fair use and First Amendment rights by imposing strict liability on the circumvention of technical restrictions. It has the potential to destroy the First Sale doctrine and to extend copyright terms in perpetuity. And in practice, it has chilled technological development and competition. That was especially evident last week when a Federal judge, citing the DMCA, issued an injunction chilling competition in the market for printer cartridges which have nothing to do with copyrights.

Today I am introducing the BALANCE Act of 2003 which seeks to restore the traditional balance of copyright law. I hope this bill will help move all parties toward the ultimate goal, a robust digital marketplace where DRM protects copyright holders, where the IT industry has freedom to create new and exciting devices and where consumers are given a broad array of lawful alternatives that are affordable, reliable, secure, and respectful of their legal rights and expectations.

A JUDGE'S OPINION

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

Mr. CARTER. Mr. Speaker, as a Texas State district judge for 20 years, I am aware, very aware, of the attorney-client privilege. This is one privilege that has withstood the challenge of liberal courts and is broader than the fifth amendment's protection against self-incrimination.

In the case of Swendler versus U.S., the Supreme Court ruled that the attorney-client privilege is so important it extends beyond the grave. We all recall Vince Foster, Clinton's deputy chief of staff, who investigated Travelgate. After killing himself, the Republican special prosecutor sought records from his attorney but was not able to get them because the Courts ruled that the attorney-client privilege survives the client's death to promote a full and frank communication between client and counsel.

Similar records are now being sought from Miguel Estrada today, and he is being refused confirmation because of those records.

Mr. Speaker, what is wrong with this picture? In this judge's opinion, Miguel Estrada deserves to sit on the bench of the D.C. Circuit Court of Appeals and should not be kept from it because he keeps sacred one of its oldest privileges.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TITLE IX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, in 1972 Title IX became law. Title IX prohibits discrimination in education programs or educational activities based on gender. This has resulted in significant gains in women athletic participation. It has been a great thing for a great many people. From 1972 to 1999, there has been a tenfold increase in women's athletic participation at the high school and the college level. At the NCAA level, the increase was from 30,000 to 157,000 athletes, roughly a 500 percent increase.

However, there is another side, Mr. Speaker, to Title IX. Between 1985 and 2001, we lost 57,000 male college athletes. During that same period, we gained 52,000 female athletes at the college level, almost the same in number. Between 1992 and 1999, there were 386 men's collegiate teams that were eliminated.

□ 1915

Mr. Speaker, 171 of those were men's wrestling teams. The most common reason given for the elimination of these programs was to comply with title IX.

Recently, the Secretary of Education established a 15-member commission to

establish a study of opportunity in athletics. The purpose was to examine title IX and its impact on athletics.

This committee made 23 recommendations. Many of those recommendations were accepted with unanimous consent. However, there were eight recommendations that were not unanimous. Some people are now saying that since they were not unanimous, they should not be implemented. I would like to just retrace four or five of these.

First, one proposal was that the Secretary of Education be given some flexibility in implementing title IX. Currently, if 60 percent of a student body is male and 40 percent is female, then that means that 60 percent of the scholarships should go to males and 40 percent to females; and there is only 1 percent variance, so that means 59 percent would be the minimum.

We feel that this is impossible to implement because sometimes athletes quit, and sometimes they sign a letter of intent and do not show up. So a 1 percent variance is not workable, and the Secretary of Education needs variability.

Secondly, a recommendation was that private funds be able to be used if a sport was to be dropped because of noncompliance with title IX. For instance, if a wrestling program was about to be dropped because of noncompliance, then it would allow people to go out and raise money privately to keep that program going. It would not eliminate women's sports or women's opportunities; it would simply keep a sport going that is rapidly disappearing. That makes sense, but there are those who oppose this.

Another proposal is that slots on team rosters be treated the same as actual athletes. For instance, if there were 20 scholarships on the women's rowing team available, but only 10 women went out for the sport, the question is do you allow that as 20 opportunities, or do you say you just count the 10 women? If you just count the 10 women, that means you have to get rid of 10 men somewhere because of the slots not being occupied. That does not make sense. As long as the opportunity is there, we think they should be counted as certainly athletes who are in compliance.

Fourthly is the use of interest surveys to indicate school compliance with title IX. This is one of the three major problems in title IX, is the interest of the underrepresented sex being met? So the proposal is to allow interest surveys to be used, so if, for instance, there is no interest in a given school in women's rifle, then we should not have to offer women's rifle. That would make sense. But, again, this is being opposed by a few people because they feel that somehow this will undo title IX.

Lastly, there is the issue of walk-ons, something I know about to a fairly great extent. Currently, walk-ons are excluded because of the head counts. So if there were 200 female athletes at a school and 200 male, and the student body was equally divided 50–50, that would mean if you had 100 people who wanted to walk on who were male, who would pay their own way to school, pay for some of their own equipment, that they would not be allowed out unless there were 100 female walk-ons also. Statistical studies show that women simply do not walk on anywhere near the same proportion as men, so we have thousands of young men everywhere who are excluded from competition because of title IX. There will be no more Rudys. There are no more Rudys, in many cases. Again, that does not make any sense.

Mr. Speaker, I had two daughters who competed in athletics. I have two granddaughters. I hope they compete as well. I also had a son who competed and two grandsons whom I hope will compete. I coached 2,000 young men. So I am certainly not opposed to female participation. But we need to restore fairness and balance to title IX, and I urge my colleagues to support a letter we are circulating to this effect.

SUPPORT THE KOBY MANDELL ACT OF 2003

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from New Jersey (Mr. ANDREWS) is recognized for 5 minutes.

Mr. ANDREWS. Mr. Speaker, I rise tonight to speak on a subject that is very much on the hearts and minds of the American people, especially in these last 18 to 20 months, and that is terrorism.

Terrorism is the deliberate use of violence against civilians for the purpose of achieving a political end. Terrorism is very much on the front page of our newspapers, but it is not new to America at all. Terrorism has historical consequences, it has human consequences, and we must make sure that it has future punitive consequences as well.

This week we commemorate a sad anniversary, the 30th anniversary of the terrorist slaughter of two leading diplomats of our Nation. Thirty years ago this week, a group of Palestinian-based terrorists burst into the Saudi Arabian Embassy in Khartoum, Sudan, and held captive a group of diplomats, including some Americans. Evidence would suggest that upon orders from the leader of what was then known as the Palestinian Liberation Organization, what is now known as the Palestinian Authority, Mr. Arafat, a decision was made by these terrorists to first torture and then execute two American diplomats.

According to a National Security Agency report at the time, the murders were carried out by members of the Palestinian terrorist group known as Black September. According to a CIA report at that time, Black September was a cover term for Mr. Arafat's Fattah movement, and the murders were carried out at his orders.

This has very human consequences. Two diplomats serving their country who were murdered 30 years ago need to be remembered.

Cleo Noel was a native of Oklahoma. He graduated from the University of Missouri, earned his masters degrees from the University of Missouri and Harvard; and he had a distinguished career in the State Department.

The other murdered diplomat was George Moore, a native of Ohio who graduated from the University of Southern California where he also earned a masters degree. Mr. Moore also had a distinguished career with the State Department, and in fact was the highest-ranking African American in the Foreign Service at the time of his murder.

Terrorism must have future punitive consequences. Our Nation has been awakened to this great threat. Very recently on the 20th of February of this year the Justice Department achieved a major victory in our war on terrorism when it issued indictments for eight members of a terrorist organization known as the Palestinian Islamic Jihad, a group responsible for the murder of at least 100 civilians.

But we must have a more systematic approach to be successful in finding and bringing to American justice those who commit these acts of terror. The murderers of Cleo Noel and George Moore have never faced American justice over these last 30 years for the terrorism that they committed.

In order to give us more opportunity, more authority, to wage this war on terrorism, I have introduced the Koby Mandell Act of 2003, named after an American citizen whose life was snuffed out while outside of our country in Israel.

The purpose of this legislation is to create within the Department of Justice a permanent unit that will aggressively seek out those who have committed acts of terror against American citizens, wherever they happen to be in the world, so that American citizens can enjoy the protection of our law enforcement system wherever they may travel, most particularly in cases where the host countries are unwilling or unable to properly administer justice to those who commit such acts of atrocity.

This was the case in the case of our two martyred diplomats. The Government of Sudan released them very shortly after their arrest. They were turned over to what was then called the Palestinian Liberation Organization, and nothing happened: no trial, no meaningful prosecution, no punishment. The word went out that the price of an American life, the price of a life of an American diplomat, was nothing.

We believe differently. We respect the value of every human life, of every person of every country. We understand our obligation and our responsibility to stand forward and protect the lives of the people who have entrusted us with the governance of this Nation.