

a leader, he was there too as the majority whip. And from 1972 to 1982, during times of great debate and political uncertainty, he served his country once again as one of the most effective members of this great institution, the people's House.

While in Congress, he was progressive and steady. He always took the high road and served his constituents with honor. I should know. During those 7 years, I proudly served as a member of Congressman Don Mitchell's staff. And after his retirement, I was elected to the seat he held.

For me, he was always a role model. Every day since, I have made it my goal as Representative Mitchell's successor in Congress to serve my constituents with the honor and dignity that Don Mitchell brought to the job. Don Mitchell left an indelible mark on the fabric of our society.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

#### E-GOVERNMENT ACT OF 2002 AMENDMENTS

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1303) to Amend the E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference, as amended.

The Clerk read as follows:

H.R. 1303

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. RULEMAKING AUTHORITY OF JUDICIAL CONFERENCE.

*Section 205(c) of the E-Government Act of 2002 (Public Law 107-347; 44 U.S.C. 3501 note) is amended by striking paragraph (3) and inserting the following:*

*(3) PRIVACY AND SECURITY CONCERNS.—*

*“(A)(i) The Supreme Court shall prescribe rules, in accordance with sections 2072 and 2075 of title 28, United States Code, to protect privacy and security concerns relating to electronic filing of documents and the public availability under this subsection of documents filed electronically or converted to electronic form.*

*“(ii) Such rules shall provide to the extent practicable for uniform treatment of privacy and security issues throughout the Federal courts.*

*“(iii) Such rules shall take into consideration best practices in Federal and State courts to protect private information or otherwise maintain necessary information security.*

*“(iv) Except as provided in clause (v), to the extent that such rules provide for the redaction of certain categories of information in order to protect privacy and security concerns, such rules shall provide that a party that wishes to file an otherwise proper document containing such protected information may file an unredacted document under seal, which shall be*

*retained by the court as part of the record, and which, at the discretion of the court and subject to any applicable rules issued in accordance with chapter 131 of title 28, United States Code, shall be either in lieu of, or in addition to, a redacted copy in the public file.*

*“(v) Such rules may require the use of appropriate redacted identifiers in lieu of protected information described in clause (iv) in any pleading, motion, or other paper filed with the court (except with respect to a paper that is an exhibit or other evidentiary matter, or with respect to a reference list described in this sub-clause), or in any written discovery response—*

*“(I) by authorizing the filing under seal, and permitting the amendment as of right under seal, of a reference list that—*

*“(aa) identifies each item of unredacted protected information that the attorney or, if there is no attorney, the party, certifies is relevant to the case; and*

*“(bb) specifies an appropriate redacted identifier that uniquely corresponds to each item of unredacted protected information listed; and*

*“(II) by providing that all references in the case to the redacted identifiers in such reference list shall be construed, without more, to refer to the corresponding unredacted item of protected information.*

*“(B)(i) Subject to clause (ii), the Judicial Conference of the United States may issue interim rules, and interpretive statements relating to the application of such rules, which conform to the requirements of this paragraph and which shall cease to have effect upon the effective date of the rules required under subparagraph (A).*

*“(ii) Pending issuance of the rules required under subparagraph (A), any rule or order of any court, or of the Judicial Conference, providing for the redaction of certain categories of information in order to protect privacy and security concerns arising from electronic filing or electronic conversion shall comply with, and be construed in conformity with, subparagraph (A)(iv).*

*“(C) Not later than 1 year after the rules prescribed under subparagraph (A) take effect, and every 2 years thereafter, the Judicial Conference shall submit to Congress a report on the adequacy of those rules to protect privacy and security.”*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

#### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1303 currently under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 1303 amends the E-Government Act to require the Judicial Conference of the United States to promulgate national rules to address privacy and security concerns relating to the electronic filing of court documents and the public availability of documents filed electronically.

To the extent any rules provide for the redaction of certain information in

order to protect privacy, this bill requires that the rules allow litigants to file and access unredacted documents under seal for evidentiary purposes in addition to a redacted version for public use.

H.R. 1303 addresses the concerns of both the Department of Justice and the judiciary. The Department of Justice was concerned that the privacy policy of the Judicial Conference could impede the legal introduction into evidence of information it deemed necessary to prove the elements of certain cases, such as bank account numbers in a fraud prosecution. The judiciary was concerned that a privacy policy allowing parties to file unredacted and sealed documents and a redacted public version could result in confusion, error, privacy risks, and reduction in access to public documents. H.R. 1303 requires the enactment of national rules to protect privacy and security concerns. However, such rules permit the filing of one “reference list,” to be kept under seal, that would include a complete version of each personal data identifier and a corresponding partially redacted version of each identifier. Only the partially redacted version may be used in future filings.

The bill encourages uniformity in all jurisdictions and empowers and Department of Justice to access the information necessary to prosecute crimes. The Judicial Conference will retain the authority to enact rules that comply with case law, provide the greatest public access to information possible, and protect the privacy of all participants in the Federal judicial system.

This is a good bill and I urge my colleagues to support it.

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

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1303, and ask my colleagues to vote for it. H.R. 1303 will address serious concerns expressed by the U.S. courts about the E-Government Act of 2002. I believe the legislation will address these concerns while still serving the worthwhile purposes of the E-Government Act.

In the wee hours of the last day of the 107th Congress, the House and Senate both passed the E-Government Act of 2002 by unanimous consent. The President later signed the act into law as Public Law 107-347.

Section 205 of that legislation required the U.S. courts to establish and maintain Web sites containing a variety of information. Required information includes access to docket information for each case, access to the substance of all written opinions issued by the court, and access to documents filed with the courthouse in electronic form.

The legislation wisely recognized that the public interests in access to court documents and the protection of privacy must be balanced. Many court

documents contain a variety of personal information, including bank account numbers, tax returns, and home addresses. Unrestricted Internet access to all court documents in their entirety might, therefore, seriously compromise the privacy of certain individuals.

In acknowledgment of these serious privacy concerns, section 205 requires the U.S. Supreme Court to prescribe rules "to protect privacy and security concerns relating to electronic filing of documents and the public availability under this subsection of documents filed electronically." The Supreme Court is required to submit its prescribed rules to Congress, and the prescribed rules would be adopted if Congress failed to act to amend or reject them within 6 months.

Section 205 also further dictates the substance of the rules that the U.S. Supreme Court must prescribe. Most relevant to the legislation before us, section 205 requires that the privacy rules adopted by the courts allow parties to file unredacted versions of court documents under seal.

□ 1415

This language addressed Justice Department concerns that the privacy rules could impede the introduction into evidence of information it deemed necessary to prove the elements of certain cases.

Because of the last-minute nature of the E-Government Act, neither the Committee on the Judiciary nor the U.S. Courts had adequate opportunity to review the final text of Section 205 before passage. Having now reviewed and reflected on Section 205, the Committee on the Judiciary had some concerns about the language. It is those concerns that H.R. 1303 addresses today.

In allowing parties to file both redacted and sealed, unredacted sets of court documents, the U.S. courts believe Section 205 creates needless potential for confusion and error. In particular, the Courts assert Section 205 will needlessly complicate the process of making appropriate versions of documents available to juries and to the public, and for certifying appropriate versions of the documents for purposes of appeal.

These concerns have been addressed in the legislation before us today. H.R. 1303 addresses the concerns of the courts, while accomplishing the objectives of the Department of Justice. In fact, H.R. 1303 as adopted by the Committee on the Judiciary represents a negotiated compromise between the Department of Justice and the U.S. courts.

H.R. 1303 requires the courts to prescribe rules that allow parties to file a reference list with the court. This reference list would include both a complete and partially-redacted version of each personal data identifier. The redacted version would be used in lieu of, and be construed to refer to, the com-

plete version in subsequent filings in the case. The list, which would be maintained under seal, would, therefore, serve as a type of key.

This approach resolves the concerns of the courts by eliminating the need to file two versions of a court document. It meets the needs of the Department of Justice by allowing for the filing of unredacted identifiers where necessary to accomplish the elements of a case.

In conclusion, Mr. Speaker, I believe this legislation is a proportionate cure for a previously-overlooked defect in the E-Government Act of 2002. Therefore, I ask my colleagues to support this legislation today.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SMITH) who is the chairman of the Subcommittee on Courts, the Internet, and Intellectual Property of the Committee on the Judiciary.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for yielding me time.

Mr. Speaker, the E-Government Act I introduced improves the information management of the Federal Government by authorizing upgrades to enhance systems management, information technology, and security. It also includes provisions that ensure greater citizen access to Federal Government information.

Section 205 of the Act instructs the Federal courts to establish and maintain a Web site with information such as courthouse locations, relevant telephone numbers, court rules, docket listings, written opinions, and case filings.

In addition, it requires the Judicial Conference to prescribe rules to protect privacy and security concerns relating to electronic filing of documents and the public availability of documents filed electronically.

After the Subcommittee on Courts, the Internet, and Intellectual Property marked up H.R. 1303, the Department of Justice raised concerns that under H.R. 1303, the Judicial Conference could adopt rules that might prevent the Department from using certain information necessary to prosecute cases, such as credit card numbers in a fraud prosecution.

At the Committee on the Judiciary markup of H.R. 1303, I offered an amendment in the nature of a substitute that addressed the concerns of both the Department of Justice and the Judiciary.

H.R. 1303 will protect privacy of Federal litigants, provide for public access to information, limit party error, and ensure the introduction of evidence necessary for the prosecution of certain cases.

Mr. Speaker, H.R. 1303 is a good bill, and I urge my colleagues to support it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 1303 which will amend Section 205 of the existing and codified "E-Government Act." The operative language of the bill with the Amendment offered by Representative Howard L. Berman and adopted by the Judiciary Committee will restore order to the electronic infrastructure that serves the federal court system.

The primary goals of the "E-Government Act," namely to (1) improve the "information management" of the Federal Government by authorizing upgrades to improve systems management, information technology, and security, and (2) to insure greater citizen access to Federal Government information serve the interest of the public by way of making the government's electronic infrastructure more "user friendly and useful overall. However, in light of the import of the existing codified language of the relevant provision, Section 205 of the E-Government Act," namely the hortatory "shall" reveals a problem that is addressed by H.R. 1303:

"[t]he Judicial Conference of the United States shall prescribe rules . . . to protect privacy and security concerns relating to electronic filing of documents and the public availability under this subsection of documents filed electronically."

While the overt intent of the hortatory language suggests a legislative benefit to the public and to the electronic infrastructure, by implication, the provision waters down the discretion of the Federal Courts to determine the sealability of court documents as well as restrict public access to certain case information.

In the wake of 9/11 and the mounting death toll that is ever-escalating even in the aftermath of war, it is vital that we keep our secure information secure and less vulnerable to negligent or abusive acts, as the net effect could lead to larger problems. Allowing carte blanche access to certain court electronic court documents allowing the manipulation of the sealability of those documents is a disaster waiting to happen. The type of crimes to be controlled by the bill introduced in the Subcommittee on Crime, Terrorism, and Homeland Security, namely H.R. 1678, the "Anti-Hoax Terrorism Act of 2003" could create an administrative nightmare for the federal court system. The cost, time, and energy expenditure that could come about absent the protections of H.R. 1303 would only make our government even more vulnerable to real terrorist attacks. As a Member of the Select Committee on Homeland Security, I am particularly interested in preventing terrorism hoaxes and holding criminal transgressors accountable. Allowing parties access to freely manipulate certain electronic litigation documents will lead to severe administrative backlog and the concomitant vulnerability of other areas of our critical infrastructure. Problems never stop where they begin. Homeland security funds and resources are both scarce and precious. During my work on the Select Committee on Homeland Security, I have spoken with numerous fire departments, police departments, hazardous materials teams, and other first responders across the country that are not receiving the funding, equipment, and other resources they need to adequately protect their communities.

Mr. Speaker, for the reasons set forth above, I support H.R. 1303, the "E-Government Act of 2003" and thank you for this opportunity to consider it.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. HEFLEY). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1303, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONDEMNING BIGOTRY AND VIOLENCE AGAINST ARAB-AMERICANS, MUSLIM-AMERICANS, SOUTH ASIAN-AMERICANS, AND SIKH-AMERICANS

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 234) condemning bigotry and violence against Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans.

The Clerk read as follows:

H. RES. 234

Whereas all Americans are united in supporting American men and women who protect our Nation abroad and at home;

Whereas thousands of Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans serve in the military and in law enforcement, working to protect all Americans;

Whereas the Arab-American, Muslim-American, South Asian-American, and Sikh-American communities are vibrant, peaceful, and law-abiding, and have greatly contributed to American society; and

Whereas all Americans, including Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans, condemn acts of violence and prejudice: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) is concerned by the number of bias-motivated crimes against Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans, and other Americans in recent months;

(2) declares that the civil rights and civil liberties of all Americans, including Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans, should be protected;

(3) condemns bigotry and acts of violence against any American, including Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans;

(4) calls upon local, State, and Federal law enforcement authorities to work to prevent bias-motivated crimes against all Americans, including Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans; and

(5) calls upon local, State, and Federal law enforcement authorities to investigate and prosecute vigorously all such crimes committed against Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 234.

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

There was no objection.

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

Mr. Speaker, introduced by the gentleman from California (Mr. ISSA), House Resolution 234 condemns bigotry and violence against individuals of Arab, Muslim, South Asian and Sikh-Americans dissent. It was introduced in response to concerns about an increase in discriminatory backlash crimes following the commencement of military action in Iraq in March 2003. Specifically, House Resolution 234 recognizes the many contributions of Arab-, Muslim-, South Asian-, and Sikh-Americans to our culture and society, calls upon law enforcement authorities to work to vigorously prevent, investigate and prosecute discriminatory backlash crimes, and reaffirms the House of Representatives' commitment to assuring that the civil rights and civil liberties of all Americans are protected.

The weeks and months following the terrorist attacks of September 11, 2001, saw a significant increase in the number of crimes committed against those perceived to be of Arab- Muslim-, South Asian-, and Sikh-American descent. Take, for example, the FBI's hate crime statistics for 2001. According to this report, the number of anti-Islamic incidents grew 1,600 percent between 2000 and 2001 taking such incidents from the second-least reported category of reported religious-bias incidents in 2000 of the second-highest reported category of religious-bias incidents in 2001.

The oversight work of the Subcommittee on the Constitution has revealed a significant effort on the part of the Department of Justice to address this alarming increase in discriminatory backlash crimes. Shortly after the September 2001 terrorist attacks, former Assistant Attorney General for the Civil Rights Division, Ralph Boyd, instructed the U.S. Department of Justice, Civil Rights Division's National Origin Working Group to help combat violations of federal civil rights laws involving individuals perceived to be of Arab-, Muslim-, South Asian-, or Sikh-American origin.

Specifically, the Working Group now receives reports of violations based upon national origin, citizenship status, and religion; conducts outreach to

vulnerable communities; and works with other Civil Rights Division components and governmental agencies to ensure accurate referral, effective outreach, and provision of services to victims of civil rights violations.

In addition, the Civil Rights Division continues to spearhead the criminal investigations and prosecutions of hundreds of backlash crimes. In April, Attorney General John Ashcroft announced that approximately 400 incidents of backlash discrimination have been investigated since September 2001 by the Civil Rights Division, the FBI and the U.S. Attorneys' Offices. Of these investigations, approximately 70 State and local criminal prosecutions were initiated and Federal charges were brought in ten cases. It is my hope that the Civil Rights Division continues to vigilantly investigate and prosecute those crimes.

Similar to House Concurrent Resolution 227, which was approved by the House just days after the terrorist attacks of 2001, House Resolution 234 will again express this body's appreciation for the contributions of Arab-, Muslim-, South Asian-, and Sikh-Americans to the Nation and condemnation of all actions of bigotry and violence towards such individuals. I applaud the gentleman from California (Mr. ISSA) for his leadership on this issue and urge my colleagues to strongly support this resolution.

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

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H. Res. 234. H. Res. 234 condemns bigotry and violence against Arab-Americans, Muslim-Americans, South Asian-Americans and Sikh-Americans, and I urge all of my colleagues to support it.

This resolution condemns bigotry and violence against individuals of Arab-American, Muslim-American, South Asian-American, and Sikh-American dissent. It was introduced in response to concerns about an increase in discriminatory backlash crimes following the commencement of military action in Iraq in March of 2003. Specifically, House Resolution 234 recognizes the many contributions of Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans to the Nation and calls upon law enforcement authorities to work vigorously to prevent discriminatory backlash crimes against such persons and to investigate such crimes that do occur and reaffirms the House of Representative's commitment to assuring that civil rights of all Americans, including individuals of Arab-American, Muslim-American, South Asian-American, and Sikh-American dissent, be protected.

In the weeks and months following the terrorist attacks of September 11, 2001, this Nation saw a significant increase in the number of crimes committed against those perceived to be Arab-Americans, Muslim-American,