avian flu is at the forefront of this county's health-related worries, it should be of the utmost concern to people that animal fighting is occurring all across the country. It makes one wonder, what kind of person could enjoy a "sport" like this?

In the forty-eight states where animal fighting is already outlawed, illegal gambling goes hand-in-hand with this gruesome activity. H.R. 137, the Animal Fighting Prohibition Enforcement Act of 2007, makes it a felony to knowingly sponsor or exhibit an animal or to use interstate commerce for the purposes of fighting. This bill would impose a prison sentence of up to 3 years.

I have supported this legislation since 2003. I am pleased that this legislation has overwhelming bipartisan support, with 303 cosponsors. Obviously we need stronger laws on this because this practice still continues.

Mr. Speaker, I urge my colleagues to pass H.R. 137, the Animal Fighting Prohibition Enforcement Act of 2007.

Mr. KUCINICH. Mr. Speaker, I rise today in support of H.R. 137, the Animal Fighting Prohibition Enforcement Act of 2007. It is hard to believe that an act as horrendous and brutal as animal fighting still takes place today.

H.R. 137 would make engaging in animal fighting a felony. This legislation will ensure that those who choose to fight animals illegally will be met with the appropriate penalty when they disregard the law.

Despite the fact that the vast majority of states have banned this atrocious and deplorable act, animal fighting continues to plague our communities. Animals such as dogs and chickens are fought to the death in the name of sport. This is unhealthy, violent behavior on the part of humans and is inhumane and merciless to the animals.

I commend both local and state officials for stepping up raids on animal fighting rings. Now it is time for this body of Congress to do our part by making these offenses a felony under Federal law. I urge my colleagues to join me and vote in favor of the Animal Fighting Prohibition Enforcement Act, H.R. 137.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and pass the bill, H.R. 137, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

□ 1730

INTERIM APPOINTMENT OF UNITED STATES ATTORNEYS

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 580) to amend chapter 35 of title 28, United States Code, to provide for a 120-day limit to the term of a United States attorney appointed on an interim basis by the Attorney General, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 580

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

SECTION 1. INTERIM APPOINTMENT OF UNITED STATES ATTORNEYS.

Section 546 of title 28, United States Code, is amended by striking subsection (c) and inserting the following new subsections:

''(c) A person appointed as United States attorney under this section may serve until the earlier of—

''(1) the qualification of a United States attorney for such district appointed by the President under section 541 of this title; or

''(2) the expiration of 120 days after appointment by the Attorney General under this section.

''(d) If an appointment expires under subsection (c)(2), the district court for such district may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court.

''(e) This section is the exclusive means for appointing a person to temporarily perform the functions of a United States attorney for a district in which the office of United States attorney is vacant.''.

SEC. 2. APPLICABILITY.

(a) IN GENERAL.—The amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION.—

(1) IN GENERAL.—Any person serving as a United States attorney on the day before the date of the enactment of this Act who was appointed under section 546 of title 28, United States Code, for a district may serve until the earlier of—

(A) the qualification of a United States attorney for that district appointed by the President under section 541 of that title; or

(B) 120 days after the date of the enactment of this Act.

(2) EXPIRED APPOINTMENTS.—If an appointment expires under paragraph (1)(B), the district court for the district concerned may appoint a United States attorney for that district under section 546(d) of title 28, United States Code, as added by this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CONYERS) and the gentleman from North Carolina (Mr. COBLE) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

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

There was no objection.

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

Mr. Speaker, the measure before us today has been introduced by the gentleman from California, a ranking member of the committee and a subcommittee Chair, HOWARD BERMAN. It is intended to restore the historical checks and balances to the process by which interim U.S. Attorneys are appointed. It will repair a breach in the law that has been a major contributing factor in the recent termination of eight able and experienced United States Attorneys and their replacement with interim appointments. It has gathered much attention across this Nation, and not just in government and legal circles.

The full circumstances surrounding these terminations are still coming to light, but what we know is already very troubling. The reports about these terminations are particularly troubling in that the United States Attorneys are among the most powerful government officials we have. They have the power to seek convictions and bring the full weight of the United States Government against any citizen or company that they deem important and eligible for prosecution. They can negotiate plea agreements. They can send people to prison for years and years. And frequently, the mere disclosure of a criminal investigation can destroy reputations and careers.

These are awesome powers. And so we on the Judiciary Committee consider it absolutely essential that the American people have full confidence in those entrusted to exercise these powers and that they do so with complete integrity and free from political influence of any kind.

The committee's investigation into these troubling circumstances is continuing. The longer time goes on, the more we know; and the more we know, the more we are troubled about what has been going on in the Department of Justice. It has already become abundantly clear that the gaping vulnerability in the law, which has placed the independence and integrity of our prosecutorial system in jeopardy, needs to be repaired as quickly as possible; and that is what we are here to do today.

What helped bring these troubling circumstances about, what helped make it possible for high-level Justice Department and White House officials to even entertain the notion that they could, as appears to be the case, target certain U.S. Attorneys for an unprecedented mid-course purge was an obscure provision adequately and anonymously slipped into the USA PATRIOT Reauthorization Act conference report in March of 2006. Without any debate, let alone the benefit of a single hearing in either body, this provision, added at the behest of the Justice Department's top political appointees to significantly enhance the power to appoint interim U.S. Attorneys without having to subject their appointments to customary safeguard of Senate confirmation. It was a middle-of-the-night insertion, and we are here to correct that.

Indeed, the administration's plan to exploit the new provision to bypass the Senate confirmation process is now well documented. As bluntly explained

by internal e-mails we received, and they now number in the hundreds, although we get them late on Friday nights, by the Attorney General's then-chief of staff, for example, discussing their plan to install the former Republican National Committee political operative, the new provision would enable them to ''give far less deference to home State Senators and thereby get our preferred person appointed and do it far faster and more efficiently at less political cost to the White House.''

This is outrageous. The Senate has already acted. The time is now. We need to move as rapidly as we can to correct this very serious error that casts a question upon the integrity of a very, very important part of our government, the Department of Justice.

Speaker, the bill before us today, introduced by my friend HOWARD BERMAN, will restore the historical checks and balances to the process by which interim U.S. Attorneys are appointed. It will repair a breach in the law that has been a major contributing factor in the recent termination of eight able and experienced United States Attorneys and their replacement with interim appointments.

The full circumstances surrounding these terminations are still coming to light, but what we know already is very troubling.

In one instance, the primary apparent qualification for the President's chosen replacement was that he had been an aggressive political operative at the Republican National Committee, thereby putting himself on Karl Rove's A list. In several other instances, the U.S. Attorney was in the midst of a sensitive public corruption investigation, and there were reportedly complaints from Republicans that the investigation was being pursued too aggressively against a fellow Republican, or was not being pursued aggressively enough against a Democrat.

The reports about these terminations are particularly troubling in that U.S. Attorneys are among our most powerful government officials. They not only have power to seek convictions and negotiate plea agreements that can send people to prison for years. The mere disclosure of a criminal investigation can destroy reputations and careers.

These are awesome powers, and it is absolutely essential that the American people can have full confidence those entrusted to exercise these powers do so with complete integrity and free from improper political influence.

The Committee's investigation into these troubling circumstances is continuing, and we will know more, and we will leave extended discussion of them for another day. But it has already become abundantly clear that the gaping vulnerability in the law, which has placed the independence and integrity of our prosecutorial system in jeopardy, needs to be repaired as quickly as possible. And that is what we are here to do today.

What helped bring these troubling circumstances about—what helped make it possible for high-level Justice Department and White House officials to even entertain the notion that they could, as appears to be the case, target certain U.S. Attorneys for an unprecedented mid-course purge—was an obscure provision quietly and anonymously slipped into the USA PATRIOT Reauthorization Act conference report in March 2006.

Without any I debate, let alone the benefit of a single hearing in either body, this provision was added at the behest of the Justice Department's top political appointees, to significantly enhance their power to appoint interim U.S. Attorneys, without having to subject the appointments to the customary safeguard of Senate confirmation.

Indeed, the Administration's deliberate plan to exploit the new provision to bypass the Senate confirmation process is now well documented. As bluntly explained in an internal e-mail by the Attorney General's then chief of staff, for example, discussing their plan to install the former RNC political operative, the new provision would enable them to ''give far less deference to home-State Senators and thereby get (1) our preferred person appointed and (2) do it far faster and more efficiently, at less political cost to the White House.''

Traditionally—since the Civil War—whenever a U.S. Attorney left office, and until the Senate could confirm a replacement, the local federal district court has appointed someone to fill the position on an interim basis. This was a neutral means of ensuring that permanent appointments remained the shared responsibility of the President and the Senate—to encourage the President to send a nomination to the Senate promptly, and to encourage the Senate to act promptly on the nomination.

In 1986, at the request of Attorney General Ed Meese, the law was modified to authorize the Attorney General to make short-term interim U.S. Attorney appointments, for up to 120 days. But if a permanent U.S. Attorney had not been confirmed by the end of that 120 days, the district court retained authority to make the appointment for the remainder of the interim period. This procedure, codified in 28 U.S.C. §546, preserved the incentives on the Executive and Legislative Branches to work together on the nomination and confirmation of a permanent replacement.

That balanced approach was unceremoniously jettisoned a year ago, and with it respect for the Senate's role in ensuring that the President's power to hire and fire U.S. Attorneys at will was not abused at the expense of prosecutorial integrity.

The stealth provision in the 2006 USA PATRIOT Reauthorization Act completely removed the district court as a backstop in the interim appointment process, turning over sole power to the Attorney General, to unilaterally make interim appointments, for an unlimited time, with no obligation to involve the Senate, or the Judicial Branch, or anyone else.

H.R. 580 will restore the checks and balances that have historically provided a critical safeguard against politicization of U.S. Attorneys. First, it repeals the 2006 change to section 546, keeping the Attorney General's interim appointment role, but limiting it to 120 days, as it was before.

Second, the bill clarifies that section 546 is the only way to make interim U.S. Attorney appointments. This additional change has become necessary in light of indications, documented by the Congressional Research Service, that the Justice Department has used, and could again use, the Federal Vacancies Reform Act to evade the intent of a tightened section 546.

Mr. Speaker, this bill is an important step in restoring legal safeguards against abuse of Executive power to politicize core government functions that need to be above political calculations in their execution. I urge my colleagues to support this important legislation.

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

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

Mr. Speaker, I rise in mild opposition to H.R. 580, primarily against the process rather than substantively.

Scrutiny over the dismissal of several U.S. Attorneys in recent days may have triggered this legislation. While we are still learning the facts surrounding those dismissals, it does remain clear that the U.S. Attorneys do indeed serve at the pleasure of the President. Some are calling for oversight investigation because of the political appearance surrounding those dismissals, and this is fine; but amending the appointment process for interim U.S. Attorneys I believe is the wrong response.

Prior to 1986, the district court appointed interim U.S. Attorneys to fill vacancies until a Presidential appointee had been nominated and confirmed by the Senate. In 1986, the process was changed to authorize the Attorney General to appoint an interim United States Attorney for 120 days, at which time, if the Senate had not confirmed a new United States Attorney, the district court would then appoint an interim to serve until a new permanent United States Attorney was indeed confirmed.

This process was not infallible. Some said authorizing the judiciary to appoint the prosecutors before their court created a conflict of interest, and I think a good argument can be made for that. Others said the Executive could maneuver the Constitution by terminating a court-appointed interim by repeatedly substituting its own interim for 120-day stints. A good argument could well be made for that as well.

In 2005, the process for appointing interim United States Attorneys, however, was changed once again. This was an amendment to section 546 of title 28, which eliminated the 120-day time limit for an Executive-appointed interim to serve and eliminated the authority for the district court to appoint an interim.

Unfortunately, one of these responses to the recent dismissals had been H.R. 580, which would return the process of appointing interim United States Attorneys for 120 days and authorizing the judiciary to appoint interims if a permanent United States Attorney is not confirmed prior to the 120-day passes.

The bill, H.R. 580, was accelerated through the Judiciary Committee. Only one hearing was held on the bill. That hearing focused mostly on the current U.S. Attorney controversy, not the bill itself. It was then heard by the full committee, but there was no opportunity for the Judiciary Subcommittee on Commercial Administrative Law markup to therefore improve the bill.

Republicans on the Judiciary Committee, many of us, would have liked to have worked with the Democrats in a bipartisan fashion more thoroughly, and I think we may have come at the finish line with a more favorable finished product. Given more time, we might have considered some promising ideas. For instance, this bill does not address the problem of appointing and confirming United States Attorneys in a timely fashion. Senators KYL and SESSIONS introduced amendments in the Senate proposing several other responses to inherent conflicts created by United States Attorney vacancies and possible ways to provide for interims.

In these times of the war on terror, Mr. Speaker and colleagues, and the continuing age-old war on crime, the service of the United States Attorneys, indeed the front line of Federal law enforcement, is more than ever a matter of first importance to the Nation. Their appointment is serious business. We should not have rushed to judgment in attending to this business, but instead have given the legislative process more time to work. I think we missed an opportunity to improve the bill as a result.

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

Mr. CONYERS. Mr. Speaker, I yield myself 15 seconds only to say, Mr. HOWARD COBLE, I recognize you as a sincere and experienced and valued member of this committee, and I appreciate the circumstances that you are in this evening.

Mr. Speaker, I yield 4 minutes to the subcommittee chairwoman, LINDA SANCHEZ of California, and I thank her for the excellent job that she has done.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise in support of H.R. 580, a bill to revoke the Attorney General's unfettered authority to appoint U.S. Attorneys indefinitely.

This legislation would repeal a small provision, with enormous repercussions, that was placed into the USA PATRIOT Reauthorization Act conference report. The provision, which removed the 120-day limit for interim appointment of U.S. Attorneys, allows interim appointees to serve indefinitely and without Senate confirmation.

We now know that the provision was inserted into the conference report at the request of a Justice Department official. Clearly, the Justice Department's effort to insert this provision was just one part of the Bush administration's coordinated plan to purge U.S. Attorneys across the country for political reasons.

My suspicions about the role of this provision in the firing of at least eight U.S. Attorneys have been confirmed after reading the documents turned over by the Justice Department. We learned, for example, that in an e-mail to former White House Counsel Harriet Miers, former Attorney General Chief of Staff Kyle Sampson wrote: ''I strongly recommend that as a matter of administration policy we utilize the new statutory provisions that authorize the Attorney General to make U.S. Attorney appointments.''

The Congressional Research Service, a nonpartisan entity, has completed a report finding that these firings are unprecedented. Prior to the forced resignation of eight U.S. Attorneys in recent months, and outside the normal turnover of U.S. Attorneys that occurs with a new administration, only 10 U.S. Attorneys were forced to resign in the last 25 years. The 10 U.S. Attorneys cited in the CRS report were all fired for cause, most under a cloud of scandal.

H.R. 580, legislation offered by my friend and colleague from California, Representative HOWARD BERMAN, provides the necessary legislative response to restore checks and balances in the U.S. Attorney appointment process by reinstating the 120-day limit on all interim appointments.

The bill also closes other potential loopholes through which Senate confirmation could be bypassed. It clarifies that section 546 of title 28 of the United States Code is the exclusive means of appointing interim U.S. Attorneys.

Additionally, the bill would apply retroactively to all U.S. Attorneys currently serving in an interim capacity. This would ensure that interim U.S. Attorneys appointed since the purge scheme was hatched are not permitted to serve indefinitely and without Senate confirmation.

At a legislative hearing on H.R. 580 before the Subcommittee on Commercial and Administrative Law on March 6, this bill received strong support from the president of the National Association of Former U.S. Attorneys, as well as a former Republican-appointed U.S. Attorney. It is also important to note that the Attorney General himself has expressed that he is not opposed to rolling back this provision of the PATRIOT Act. And if the Attorney General's claim that he was not aware of the Justice Department efforts to quietly insert this provision are true, it would seem he never wanted the PATRIOT Act changes to the U.S. Attorney selection process in the first place.

Additionally, the corresponding bill in the Senate received strong bipartisan support and passed by an overwhelming margin of 94–2.

Mr. Speaker, we must begin to restore the independence of U.S. Attorneys across the country and return to the bedrock principle of our court system that justice must be served objectively and without fear or favor.

□ 1745

While the consideration of H.R. 580 will not end the Judiciary Committee's ongoing investigation of the U.S. Attorney purge scheme, the passage of this legislation is a critical step in this process to close the loophole in the PATRIOT Act that this administration has improperly exploited for political purposes.

I urge my colleagues to support this legislation.

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

Mr. CONYERS. Mr. Speaker, I recognize HOWARD BERMAN, the senior member on the Judiciary Committee, and thank him for his authorship of the measure that brings us to the floor this evening. I yield to him 5 minutes.

Mr. BERMAN. Mr. Speaker, I thank the chairman who cosponsored this bill with me, along with the gentleman from Virginia (Mr. SCOTT), chairman of the Crime Subcommittee of Judiciary Committee.

H.R. 580 does only one thing, it restores the checks and balances that, until last year, had long been part of the process for filling vacancies in U.S. Attorneys' offices.

I won't go through the history of how interim U.S. Attorneys were appointed, because the chairman has spelled it out, and the gentleman from North Carolina has reaffirmed that history. But I want to address the one issue my friend from North Carolina raised, which is, were we to take a longer time, this might have been, at least to his way of thinking, a better approach.

The whole goal of this bill is to restore the status quo ante before a sneak attack change on the law utilized in the PATRIOT Act without anyone calling special attention to it, undiscussed by the conferees or by the members of either this House or the other body, change that law to give the executive bench total authority in this particular area.

The Senator, a member of the other body who was chairman of the Judiciary Committee of the other body during this time, has said that he didn't know about the provision until a colleague alerted him to it last month. The former chairman's staff told him that the Department of Justice provided the language and that it was inserted in the conference report by a member of his staff who was made U.S. Attorney in Utah only 4 months later.

Now we have a different story from the Department of Justice. Will Moschella, the former head of the Office of Legislative Affairs, now claims sole responsibility for the provision and says he pursued the change on his own, without the knowledge or coordination of his superiors at the Justice Department or the White House.

This is a Department, the Department of Justice, that says it fired eight U.S. Attorneys for not coordinating their work 100 percent with the priorities of the Department, and yet we are supposed to believe that they are permitting a relatively low-level official to fly solo in changing Federal law on the appointment of U.S. Attorneys without any other departmental involvement. It is for this reason, I say to my friend from North Carolina, that the first thing we need to do is to go back to the status quo ante, the compromise worked out in the Reagan administration with Attorney General Ed

Meese, a Democratic House and the Republican Senate in 1986, which allowed for this process where we gave for the first time the Attorney General the right to name an interim U.S. Attorney, providing the district court with the theoretical ability, should that court choose to do so, to replace or, as has been much more likely, simply reaffirm the naming of the interim U.S. Attorney if no full U.S. Attorney had been confirmed yet by the Senate.

What is clear from the e-mails provided to the Judiciary Committee is that the Department of Justice and White House employees, whatever their motivation in pushing this proposal originally, whatever their motivation, they quickly figured out that the provision created the possibility to circumvent the Senate and decided to exploit that power.

One e-mail between the Department of Justice and the White House depicts an effort to slow-walk a nomination so an interim appointee can stay in place. The two employees discussed an interim appointee in Arkansas who they knew was unlikely to get Senate confirmation.

An employee in the White House Counsel's Office writes, ''If this is a section 546 appointment for unlimited duration, he can call himself U.S. Attorney. Our talkers should avoid referring to him as 'interim.'''

The Attorney General's chief of staff replies, and I quote, ''We should gum this to death. Our guy is in there so the status quo is good for us. Pledge a desire for a Senate-confirmed U.S. Attorney and otherwise hunker down.''

I suggest there is ample opportunity in the record to recognize that the change we made in the PATRIOT Act without the knowledge, as far as I can tell, of any representative of either House was an ill-considered change; and the first thing we need to do and what this bill does is bring the law back to what had existed.

Mr. CONYERS. Mr. Speaker, how much time remains on either side?

The SPEAKER pro tempore. The gentleman from Michigan has 5 minutes; the gentleman from North Carolina has 15½ minutes.

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

Mr. CONYERS. I recognize the gentleman from Oregon (Mr. BLUMENAUER) for 1 minute.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the chairman's courtesy in permitting me to speak on this bill. I appreciate also what Ranking Member COBLE talked about in terms of outlining these issues.

But it seems to me that there was just one area where I would take modest exception with him, and that is the notion that we should have been taking more time to vet this and look at alternatives. Because I fully agree with the gentleman from California, where there was not adequate time for Congress to be involved is when this was slipped into the PATRIOT Act revisions in the first place. Without the knowledge of anybody, it seems, in the House or the Senate, this change was done by the staff behind closed doors. We didn't know about it. I haven't heard yet from any of my Republican friends that did.

By restoring the status quo ante the way that it had been for years, we get back to a situation where we can remove this from the table. We can have a dispassionate discussion about what has happened with the Department of Justice and its future; and, if we want to make any change, then at least we have something that has stood the test of time.

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

Mr. CONYERS. The gentleman from Washington (Mr. INSLEE) is recognized for 2 minutes.

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

Mr. INSLEE. Mr. Speaker, this bill could not be more timely. As I was walking across the street in front of the Supreme Court, I saw the inscription chiseled in the marble of the Supreme Court. It says, ''Equal justice under law.'' But we have witnessed now in the last few weeks the unpeeling of a scandal where the executive branch fired eight well-performing U.S. Attorneys because they would not do the political dirty work of the White House. And it is apparent now, as much as it has ever been, that we have to have a check and balance on the executive branch with Senate confirmation.

I want to know why this is so viscerally important. In my district in western Washington, we had a gentleman named John McKay who was doing, by all rights, a good job as a U.S. Attorney for western Washington. But then there was this contentious election out there for Governor in 2004, and a bunch of Republicans were leaning on him to start a grand jury investigation alleging voter fraud because the vote came out in favor of the Democrat. He refused to do so because he said he didn't see any evidence of voter fraud.

A little later what happens is he goes to the White House for a meeting about a prospective judgeship, and what do they ask him about? They say: How come Republicans are mad at you, at the White House. And he knows what they are mad about, is because they wouldn't go after this case where there was no evidence of voter fraud. It was apparent they were leaning on him; and, when he did not collapse, he was fired.

Now, this is a situation where it is clear that we need Senate confirmation. And, by the way, I have written a letter to the President today saying the President should reinstate that U.S. Attorney while this matter is investigated. This thing smells like a mackerel in the moonlight, and it needs to be resolved. Until it is resolved, Congress is going to be investigating; and to prevent this from happening again, we need to be sure we have Senate confirmation.

Mr. COBLE. Mr. Speaker, the gentleman from Washington referred to it as scandal. It may well end up being a scandal, but I think to use that word today might well be premature. But, meanwhile, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield to the gentlewoman from Texas, SHEILA JACKSON-LEE, 1 minute.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman, and I rise with sadness to support this legislation that clears up the obviously ongoing abuse and disrespect of the integrity of the three branches of government.

We passed the PATRIOT Act that some of us did not support, but we did not intend for it to be used to avoid the constitutional Senate confirmation process. That is what has happened. We understand now that the Attorney General unfortunately may have been in meetings, may have been informed of issues dealing with the termination of U.S. Attorneys without providing that direct information to the United States Congress.

This legislation again sets the Constitution back on its feet. It allows for Senate confirmation for U.S. Attorneys, and it puts back on track the integrity in terms of the respect and integrity that is necessary for the judiciary and legal system that the American people have come to understand and believe. I believe we should support this bill, and I hope we will get back on track with the relationship between Congress, the executive, and the judiciary.

Mr. Speaker, I rise in strong support of H.R. 580, which amends chapter 35 of title 28 of the United States Code to restore the 120-day limit on the term of a United States Attorney appointed on an interim basis by the Attorney General. The shocking disclosures of the last few weeks provide all the justification needed to adopt this salutary measure promptly and by an overwhelming margin. Our friends in the other body passed companion legislation last week by a vote of 94–2.

Mr. Speaker, United States Attorneys are appointed by the President with the advice and consent of the Senate. Each United States Attorney so appointed is authorized to serve a 4-year term but is subject to removal by the President without cause. The Senate's advise and consent process formally checks the power of the President by requiring the United States Attorney nominee to go through a confirmation process. In addition, Senators also play a particularly influential informal role in the nomination of United States Attorneys.

Typically, a President, prior to appointing a new United States Attorney, consults with the Senators from the State where the vacancy exists if they are members of the President's political party. The President usually accepts the nominee recommended by the Senator or other official. This tradition, called ''senatorial courtesy,'' serves as an informal check on the President's appointment power.

Since the Civil War, the judiciary has been empowered to fill vacancies in the office of the United States Attorney. In 1966, that authority was codified at 28 U.S.C. §546. When a United States Attorney position became vacant, the district court in the district where the vacancy occurred named a temporary replacement to serve until the vacancy was filled. In 1986, in response to a request by the Attorney General that its office be vested with authority to appoint interim United States Attorneys, Congress amended the statute to add former section 546(d).

Pursuant to this authority, the Attorney General was authorized to appoint an interim United States Attorney for 120 days and, if the Senate did not confirm a new United States Attorney within such period, the district court was then authorized to appoint an interim United States Attorney to serve until a permanent replacement was confirmed. By having the district court play a role in the selection of an interim United States Attorney, former section 546(d) allowed the judicial branch to act as a check on executive power. In practice, if a vacancy was expected, the Attorney General would solicit the opinion of the chief judge of the relevant district regarding possible temporary appointments.

Twenty years later, section 546 was amended again in the USA PATRIOT Improvement and Reauthorization Act of 2005. This legislation amended section 546(c) to provide that ''[a] person appointed as United States attorney under this section may serve until the qualification of a United States Attorney for such district appointed by the President'' under 28 U.S.C. §541. The extent of the legislative history of this provision is one sentence appearing in the conference report accompanying the act: ''Section 502 [effecting the amendments to section 546] is a new section and addresses an inconsistency in the appointment process of United States Attorneys.''

Although the legislative purpose is unclear, the practical effect is not. The act amended section 546 in two critical respects. First, it effectively removed district court judges from the interim appointment process and vested the Attorney General with the sole power to appoint interim United States Attorneys. Second, the act eliminated the 120-day limit on the term of an interim United States Attorney appointed by the Attorney General. As a result, judicial input in the interim appointment process was eliminated. Even more problematic, it created a possible loophole that permits United States Attorneys appointed on an interim basis to serve indefinitely without ever being subjected to a Senate confirmation process, which is plainly a result not contemplated by the Framers.

Mr. Speaker, excluding changes in administration, it is rare for a United States Attorney to not complete his or her 4-year term of appointment. According to the Congressional Research Service, only 54 United States Attorneys between 1981 and 2006 did not complete their 4-year terms. Of these, 30 obtained other public sector positions or sought elective office, 15 entered or returned to private practice, and 1 died. Of the remaining eight United States Attorneys, two were apparently dismissed by the President, and three apparently resigned after news reports indicated they had engaged in questionable personal actions.

Mr. Speaker, in the past few months disturbing stories appeared in the news media reporting that several United States Attorneys had been asked to resign by the Justice Department. It has now been confirmed that at least seven United States Attorneys were asked to resign on December 7, 2006. An eighth United States Attorney was subsequently asked to resign. They include the following: H.E. Cummins, III, U.S. Attorney, E.D. Ark.; John McKay, U.S. Attorney, W.D. Wash.; David Iglesias, U.S. Attorney, D. N.M.; Paul K. Charlton, U.S. Attorney, D. Ariz.; Carol Lam, U.S. Attorney, S.D. Calif.; Daniel Bogden, U.S. Attorney, D. Nev.; Kevin Ryan, N.D. Calif.; and Margaret Chiara, W.D. Mich.

On March 6, 2007, the Subcommittee on Commercial and Administrative Law held a hearing entitled, ''H.R. 580, Restoring Checks and Balances in the Confirmation Process of United States Attorneys.'' Witnesses at the hearing included six of the eight former United States Attorneys and William Moschella, Principal Associate Deputy Attorney General, among other witnesses.

Six of the six former United States Attorneys testified at the hearing and each testified that he or she was not told in advance why he or she was being asked to resign. Upon further inquiry, however, Messrs. Charlton and Bogden were advised by the then Acting Assistant Attorney General, William Mercer, that they were terminated essentially to make way for other Republicans to enhance their credential and pad their resumes. In addition, Messrs. Iglesias and McKay testified about inappropriate inquiries they received from Members of Congress concerning pending investigation, which they surmised may have led to their forced resignations.

Mr. Speaker, the USA PATRIOT Act Reauthorization provision on interim U.S. Attorneys should be repealed for two reasons. First, Members of Congress did not get an opportunity to vet or debate the provision that is current law. Rather the Republican leadership of the 109th Congress slipped the provision into the conference report at the request of the Department of Justice. Not even Senate Judiciary Chairman ARLEN SPECTER, whose chief of staff was responsible for inserting the provision, knew about its existence.

Second, it is now clear that the manifest intention of the proponents of the provision was to allow interim appointees to serve indefinitely and to circumvent Senate confirmation. We know now, for example, that in a September 13, 2006 e-mail to former White House Counsel Harriet Miers, Attorney General Chief of Staff Kyle Sampson wrote:

> I strongly recommend that, as a matter of Administration policy, we utilize the new statutory provisions that authorize the Attorney General to make U.S. Attorney appointments.

Mr. Sampson further said that by using the new provision, DOJ could ''give far less deference to home-State Senators and thereby get (1) our preferred person appointed and (2) do it far faster and more efficiently, at less political cost to the White House.''

Regarding the interim appointment of Tim Griffin at the request of Karl Rove and Harriet Miers, Mr. Sampson wrote to Monica Goodling, Senior Counsel to the White House and Liaison to the White House on December 19, 2006 the following:

> I think we should gum this to death: ask the Senators to give Tim a chance, meet with him, give him some time in office to see how he performs, etc. If they ultimately say, 'no never' (and the longer we can forestall that, the better), then we can tell them we'll look for other candidates, and otherwise run out the clock. All of this should be done in 'good faith,' of course.

Finally, we now know that after gaining this increased authority to appoint interim U.S. Attorneys indefinitely, the administration has exploited the provision to fire U.S. Attorneys for political reasons. A mass purge of this sort is unprecedented in recent history. The Department of Justice and the White House coordinated this purge. According to an administration ''hit list'' released on Tuesday, U.S. Attorneys were targets for the purge based on their rankings. The ranking relied in large part on whether the U.S. Attorney ''exhibit[ed] loyalty to the President and Attorney General.''

Mr. Speaker, until exposed by this unfortunate episode, United States Attorneys were expected to, and in fact did exercise, wide discretion in the use of resources to further the priorities of their districts. Largely a result of its origins as a distinct prosecutorial branch of the Federal Government, the office of the United States Attorney traditionally operated with an unusual level of independence from the Justice Department in a broad range of daily activities. That practice served the Nation well for more than 200 years. The practice that has been in place for less than 2 years has served the Nation poorly. It needs to end.

Mr. Speaker, during the full committee markup of H.R. 580, I brought to my colleagues' attention the value of including in the bill or committee report the core congressional findings that forms the justification for this legislation. Briefly stated, those findings are as follows:

The Congress finds as follows:

(1) That United States Attorneys are ''inferior officers'' and therefore are subject to the Constitution's discretionary appointment provisions authorizing the Congress to vest the appointment power in the President alone or the judiciary.

(2) Vesting the authority in the United States Attorney General to appoint an interim United States Attorney to serve an indefinite term undermines the confirmation process of the United States Senate and removes a legislative check on executive power.

(3) Vesting residual power to appoint an interim United States Attorney in the Federal district court in which the vacancy occurs constitutes an important judicial check on executive power.

Mr. Speaker, H.R. 580 is a thoughtful and well crafted legislative measure which will restore public confidence in the process by which interim United States Attorneys are appointed. I strongly support the bill and urge all Members to do likewise.

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

Mr. CONYERS. Mr. Speaker, Members of the House, the American people must have full confidence in the integrity and the independence of the United States Attorneys in charge of Federal prosecutions throughout the country, in every State. While they owe the President their appointments, once they are in their jobs their enforcement decisions must be unquestionably above politics; and that is why we are here today.

Senate confirmation is required for each one of them in an open and public process, and it is a critical safeguard against politicization of our prosecutorial system. This safeguard has been severely compromised by the secret change that has been referred to, and this bill restores the safeguards.

□ 1800

I ask my colleagues to fully support this measure on both sides of the aisle.

Mr. SMITH of Texas. Mr. Speaker, this legislation would return the procedures for appointing interim U.S. Attorneys to what it was before Congress reauthorized the PATRIOT Act.

Some have claimed that the PATRIOT Act's reform was used to avoid Senate confirmation of permanent U.S. attorneys. To prevent that alleged abuse, this bill, H.R. 580, was rushed headlong through the Judiciary Committee.

One hearing was held on the bill. But that hearing focused mostly on the current U.S. Attorney controversy, not the bill, itself. It was then pushed immediately to the full committee, without an opportunity for subcommittee mark-up.

Republicans on the Judiciary Committee would have liked to have worked more with the Democrats in a bipartisan fashion to improve the existing law. We might well have found a better solution.

The majority's own witnesses at the hearing, for example, testified that much of the problem with the interim appointments process is the time it takes to obtain Senate confirmation. This bill, however, does not address that problem.

Given more time, we might have considered some promising ideas from the other side of the Capitol.

Senator KYL, for example, proposed a 120-day interim appointment power for the Executive Branch, and a 120-day clock for the Senate to confirm permanent appointees. This would have addressed the principal problem.

Senator SESSIONS proposed to set qualification standards for judicial appointments of interim appointees. These standards would have helped prevent unsuitable judicial appointees—assuming, for the purposes of argument, that there should be any judicial appointees of Executive Branch prosecutors.

This bill would allow judges to appoint the very Executive Branch prosecutors practicing before them, and would raise legal, ethical and practical concerns. Surely we could have done better than return to a flawed law of the past.

The rush to legislation also led to an under-considered amendment adopted at committee mark-up. That amendment would preclude the use of the full range of tried and true tools in the Vacancy Reform Act to obtain interim U.S. Attorneys.

Specifically, it would preclude the President from reaching out to Senate-confirmed, Presidential appointees serving in other capacities, rather than just career civil servants, to serve in these important posts on an interim basis.

The amendment limits the pool of qualified individuals to serve temporarily as U.S. Attorneys, so it weakens the federal government's ability to fight crime.

In these times of the War on Terror and the continuing, age-old war on crime, the service of U.S. Attorneys—the front line of federal law enforcement—is more than ever a matter of first importance to the Nation. Their appointment is serious business.

We should not have rushed to judgment in attending to this business, but instead have given the legislative process the time that it deserves.

We have missed an opportunity to improve this bill. The American people have not been well-served.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the bill, H.R. 580, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

SAFETEA–LU TECHNICAL CORRECTIONS ACT

Mr. DEFAZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1195) to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1195

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

TITLE I—HIGHWAY PROVISIONS

SECTION 101. SURFACE TRANSPORTATION TECHNICAL CORRECTIONS.

(a) CORRECTION OF INTERNAL REFERENCES IN DISADVANTAGED BUSINESS ENTERPRISES.—Paragraphs (3)(A) and (5) of section 1101(b) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1156) are amended by striking ''paragraph (1)'' each place it appears and inserting ''paragraph (2)''.

(b) CORRECTION OF DISTRIBUTION OF OBLIGATION AUTHORITY.—Section 1102(c)(5) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1158) is amended by striking ''among the States''.

(c) CORRECTION OF FEDERAL LANDS HIGHWAYS.—Section 1119 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1190) is amended by striking subsection (m) and inserting the following:

''(m) FOREST HIGHWAYS.—Of the amounts made available for public lands highways under section 1101—

''(1) not more than $20,000,000 for each fiscal year may be used for the maintenance of forest highways;

''(2) not more than $1,000,000 for each fiscal year may be used for signage identifying public hunting and fishing access; and

''(3) not more than $10,000,000 for each fiscal year shall be used by the Secretary of Agriculture to pay the costs of facilitating the passage of aquatic species beneath forest roads (as defined in section 101(a) of title 23, United States Code), including the costs of constructing, maintaining, replacing, and removing culverts and bridges, as appropriate.''.

(d) CORRECTION OF DESCRIPTION OF NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROJECT.—Item number 1 of the table contained in section 1302(e) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1205) is amended in the State column by inserting ''LA,'' after ''TX,''.

(e) CORRECTION OF INTERSTATE ROUTE 376 HIGH PRIORITY DESIGNATION.—

(1) IN GENERAL.—Section 1105(c)(79) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 119 Stat. 1213) is amended by striking ''and on United States Route 422''.

(2) CONFORMING AMENDMENT.—Section 1105(e)(5)(B)(i)(I) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2033; 119 Stat. 1213) is amended by striking ''and United States Route 422''.

(f) CORRECTION OF INFRASTRUCTURE FINANCE SECTION.—Section 1602(d)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1247) is amended by striking ''through 189 as sections 601 through 609, respectively'' and inserting ''through 190 as sections 601 through 610, respectively''.

(g) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS DEFINED.—Section 101(a) of title 23, United States Code, is amended by adding at the end the following:

''(39) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

''(A) IN GENERAL.—The term 'transportation systems management and operations' means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

''(B) INCLUSIONS.—The term 'transportation systems management and operations' includes—

''(i) regional operations collaboration and coordination activities between transportation and public safety agencies; and

''(ii) improvements to the transportation system, such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.''.

(h) CORRECTION OF REFERENCE IN APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS.—Effective October 1, 2006, section 104(b)(5)(A)(iii) of title 23, United States Code, is amended by striking ''the Federal-aid system'' each place it appears and inserting ''Federal-aid highways''.

(i) CORRECTION OF AMENDMENT TO ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended by redesignating subsection (d) as subsection (c).

(j) CORRECTION OF HIGH PRIORITY PROJECTS.—Section 117 of title 23, United States Code, is amended—

(1) by redesignating subsections (d) through (h) as subsections (e) through (i), respectively;

(2) by redesignating the second subsection (c) (relating to Federal share) as subsection (d);