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ADMINISTRATION'S ECONOMIC RECOVERY PLAN IS A FORM OF ECONOMIC FAITH HEALING

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

Mr. DORGAN of North Dakota. Mr. Speaker, I have been listening to claims about the economic recovery program for 5 months. I just want to say I am a bit tired of the claims. I think the program for economic recovery and the claims that are made about it are sheer nonsense.

The fact is, they say, "If we just cut Government spending we can save the economy. If we just give the rich some big tax breaks it is going to be great for all of us. If we turn our energy policy over to the energy companies, somehow it is going to be good for our future. If we throw money at the military, somehow we are going to be a stronger America."

I just think it is nonsense, and it is time for us to start talking about what is real in economics.

The program, I think, is becoming a feedlot for the rich in both tax cuts and spending cuts. I think we ought to cut spending just because we spend too much, and I think we ought to cut taxes simply because our tax system is bad and our tax system needs cutting. So, I intend to support spending cuts and tax cuts.

But, let us stop deluding that these are going to cure the economy. The fact is, the type of spending cuts and tax cuts that we have seen proposed by the administration are not only unfair, I think they represent a form of economic faith healing that will not work.

OMB WANTS IT BOTH WAYS: CONGRESS CUTS TOO MUCH; CONGRESS WILL NOT CUT AT ALL

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

Mrs. SCHROEDER. Mr. Speaker, I was amused, as I am sure you were, to read OMB's latest diatribe against congressional efforts to reduce the budget through the reconciliation process. It seems on the one hand, that we are making Draconian cuts. I can assure you that, if Draco were still alive today, he would be 2,602 years old and would work at OMB.

On the other hand, we are charged with offering false savings, by the same people who proposed to save \$9 billion by moving the strategic petroleum reserve from an on-budget to an off-budget item. The modern day Dracos at OMB seem to want to have it both ways: Congress cuts too much; Congress will not cut at all.

One allegedly false savings has to do with semiannual cost of living adjustments for retirees. The Committee on Armed Services, on which I serve, tied

COLA's for military retirees to what happens to civil service retirees. The Foreign Service Act, which DANTE FASCELL and I developed last Congress, tied COLA's for retired Foreign Service personnel to what happens to civil service retirees. These linkages are crucial for employee moral and fairness. Each class of Federal retirees should be protected against the cruel punishment of President Reagan's inflation to the same extent. To do otherwise would be to demean the work of one type of Federal worker.

So, the lead committee on the issue is Post Office and Civil Service, on which I serve as chair of the Subcommittee on Civil Service. We decided, given the fact that we were forced to make \$5 billion worth of unwarranted budget cuts, that it was less unfair and less of a breach of faith to treat military retirees in the same way as civil service retirees for purposes of reemployment than it was to go back on the word we gave retirees that we would protect twice-a-year COLA.

I would remind my colleagues that the House overwhelmingly reaffirmed that commitment on an amendment offered by the Republican from Maryland, Mr. Bauman, just last year.

The Congressional Budget Office has told us that our double-dipper proposal will save \$907 million in budget authority next year. This is more than the aggregate of all the once-a-year COLA proposals, of which OMB seems so fond. Where, I ask you, is the false savings? It is clear to me who has the concession on deception in Washington today.

□ 1015

ADMINISTRATION ATTACKS COMMITTEE ON EFFORTS TO CORRECT DOUBLE-DIPPING EXCESSES

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

Mr. FORD of Michigan. Mr. Speaker, yesterday President Reagan's head of the Office of Personnel Management Donald Devine unleashed a bitter attack at the Committee on Post Office and Civil Service, accusing it of a "phony" action in attempting to treat all Federal employees exactly the same with respect to the issue of double-dipping.

It was an extraordinary defense of a practice that permits a person to receive full retirement pay while earning a second retirement entitlement and, indeed, a second full paycheck.

Indeed, it is now possible for the same person to have the Government contribute to social security while he is serving in the military and later, after 20 years of military service, use his veteran's preference to go ahead of other people seeking employment with the Federal Government, and then to receive a full civil service paycheck, plus a full military pension, while ac-

quiring a civil service pension, and then, on his 62d birthday, retire to Florida or Arizona, thereby becoming entitled to three checks at the beginning of each month from Uncle Sam from three different retirement systems. This occurs at the same time when many people in this country do not have any pension and when the Reagan administration, through OMB Director David Stockman, has recommended taking old people who are getting the \$122 minimum benefit off the social security roles because they do not need it.

I am surprised that the administration supports any kind of double-dipping. I recall that the administration earlier this year attacked what it perceived as double-dipping on the part of hapless school children who benefit from both food stamps and subsidized school lunches.

I find it hard to believe that the administration favors taking food away from poor children but supports paying some people three Federal pensions.

Elimination of double-dipping would result in real savings. To say that this is a "phony move," as the administration has, is to play recklessly with the facts. According to the Congressional Budget Office, it would save \$907 million in budget authority in fiscal year 1982 alone.

PERMISSION FOR COMMITTEE ON THE DISTRICT OF COLUMBIA TO SIT TODAY DURING 5-MINUTE RULE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia may be permitted to sit today during the 5-minute rule for the purpose of considering legislation related to the location of chanceries in the District of Columbia.

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

There was no objection.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1981

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3480) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of

the bill, H.R. 3480, with Mr. VENTO, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, June 17, 1981, the Clerk had read through line 3 on page 11 of the bill. Pending was an amendment offered by the gentleman from Georgia (Mr. McDONALD).

Mr. KASTENMEIER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take the floor for two purposes. I want, first of all, briefly to inform the Committee of the situation we are in and the expectations of the managers of the bill.

We are starting section 11 of a bill with technically 14 sections. There are a number of amendments to section 11, which is the section on restrictions. The amendment offered by the gentleman from Georgia (Mr. McDONALD) is the last amendment before we start section 11 of the bill. The gentleman from Georgia adds a new section 11 to H.R. 3480.

Other issues which will be raised in the bill's section 11 will be those of education and desegregation in education generally, and there will be two amendments on the subject offered by the gentleman from Ohio (Mr. ASHBROOK). On the question of whether legal advice shall be prohibited in abortion cases, there is an amendment by the gentleman from Wisconsin (Mr. SENSENBRENNER). There are two possibilities for amendments on the question of aliens or illegal aliens and their representation by the Legal Services Corporation program. Essentially those are the other areas to be covered in section 11.

In section 12, there are a couple of amendments but my understanding is that at least on one and perhaps both there is likely to be agreement.

In section 13, there are several amendments, at least two of which are important.

Obviously, Mr. Chairman, we intend to conclude today. We have adequate time to do so. I hope that the Members will not unduly protract the debate, particularly on issues which go far beyond the bill and are emotional in character and would bring very little light to the formulation of language in this bill.

Mr. Chairman, on yesterday, when the Committee rose, the gentleman from Georgia (Mr. McDONALD) had offered his amendment on the subject of homosexuality. As a matter of fact—and I hope this will be true of other amendments—we will try to explain what the present law is in the act, what is in the bill, and then, third, what the implications of the amendments are. So there is throughout this section the need for reviewing these two choices—very often there are three—the present act, that which is in the bill before us, and that which a Member's amendment may seek to accomplish.

On the subject before us now, that of homosexuality, the committee in its wisdom, while I did not support the subcommittee in this, nonetheless felt that it was desirable to provide language in the current law on appropriations to provide a limitation. They put this in the act. It simply states on page 12 that it shall not be permitted that there be provided "legal assistance for any litigation which seeks to adjudicate the legalization of homosexuality."

Now, this language was agreed to in conference last year and is a present restriction in the law in an appropriations bill (Public Law 96-536).

The language of the gentleman from Georgia (Mr. McDONALD) presumably goes beyond that. It talks about funds which may not be used "to provide legal assistance to promote, defend or protect homosexuality." I take it this is consistent with his amendment of last year. It further goes on to discuss and forbid the implementation of proposed rules of the Corporation.

I oppose the amendment offered by the gentleman from Georgia (Mr. McDONALD). I think it is unnecessary, because in large measure it will be duplicative. We are at least dealing with a subject which is certainly not important in the sense that the Legal Services programs are widely used for these purposes. There are rare cases involving this subject. Those cases are rare indeed.

□ 1030

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has expired.

(By unanimous consent, Mr. KASTENMEIER was allowed to proceed for 1 additional minute.)

Mr. KASTENMEIER. Let me say in conclusion, Mr. Chairman, what the committee gives you as language is that which the House and the Senate have already voted on, on the subject, and is current law. I think to go beyond this would be not only unnecessary and duplicative, but raise far more questions than it answers as to who might be represented for whatever purpose.

It has been suggested by others, even those who would defend themselves against such a charge, would be powerless if otherwise qualified to seek redress or assistance of the Legal Services Corporation.

So for that reason, Mr. Chairman, I urge that the Committee reject the amendment of the gentleman from Georgia.

I yield to the gentleman from Georgia, Mr. McDONALD.

Mr. McDONALD. Mr. Chairman, I ask unanimous consent to be able to insert at this point in the RECORD a statement that was read at the conclusion of yesterday's session.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. McDONALD. Mr. Chairman, the amendment before us today really requires little debate or explanation. Very simply, the U.S. Government should not spend 1 penny to promote, defend, or protect the practice or acts of homosexuality. In these changing political times, when it is clear the people of the United States have told Congress they want a change from business as usual, it seems apparent to me the message they are sending us is not one which seeks to promote the legitimacy of homosexuality.

Individuals may have the right in their own personal lives to do as they see fit. This is not to say, however, that the Congress of the United States should venerate that conduct by expending funds to protect those practices.

It is, therefore, my proposal that no part of this bill authorize the use of taxpayer's funds to promote, defend, or protect the practice or acts of homosexuality.

The regulations proposed on March 23, 1981, by the Legal Services Corporation, which the second part of my amendment seeks to terminate, have the effect of making certain that funds of this Government could not be expended unless they in fact did promote, defend, or protect the practice or acts of homosexuality. Because this is the apparent opposite of what should be done and the exact opposite of what the House last year declared they wanted done by a vote of 290 to 113, it is clear these regulations in their present form should not be promulgated either.

In conclusion, Mr. Chairman, this is a simple amendment and straightforward vote. Those of this House who feel we should not spend taxpayers' dollars to promote, defend, or protect the practice or acts of homosexuality should vote in favor of this amendment.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has again expired.

(At the request of Mr. WEISS, and by unanimous consent, Mr. KASTENMEIER was allowed to proceed for 1 additional minute.)

Mr. WEISS. Mr. Chairman, will the gentleman yield to me?

Mr. KASTENMEIER. Yes; I certainly yield.

Mr. WEISS. Mr. Chairman, I appreciate the gentleman yielding to me.

I simply want to associate myself with his position and comment that, as a matter of fact, on exactly the same language the Justice Department last year expressed its opposition to the McDonald amendment because of the unconstitutionality, in their judgment, of this particular provision.

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

Mr. LEACH of Iowa. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, gay rights is a subject all too prone to emotive rather than reasoned debate. An important consideration of the gay issue in a legal services context is the lawyer's professional obligation, which is borne by all members of the bar, whether they work for a federally supported legal services program or in the private sector in a partnership, a corporation, or other work setting.

The American Bar Association's model code of professional responsibility provides in part that:

The duty of a lawyer, both to his client and to the legal system, is to represent his client zealously within the bounds of the law.

This ethical consideration is explained:

In our government of laws and not men, each member of our society is entitled to have his conduct judged and regulated in accordance with the law; to seek any lawful objective through legally permissible means; and to present for adjudication any lawful claim, issue, or defense.

I am concerned that the McDonald amendment, which prevents an attorney from advocating all a client's legal rights, interferes with the ethical obligation of a lawyer to represent a client fully within the law.

This obligation stands at the very center of the adversary process. The legal system assumes, and its efficacy depends on, each lawyer advocating all a client's legal rights, and to the best of the lawyer's ability. It is not for the advocate to decide what is just, or even moral, in the case; such a judgment would usurp the function of the judge or jury. The advocate seeks for the client that which the client is entitled under the law. A lawyer betrays a professional trust if he or she does not exercise every legitimate effort on the client's behalf. Congress should not put a lawyer, any lawyer, in a position where he or she is forced to violate ethical obligations or ignore a client's rights under the law.

Accordingly, any restriction on representation, simply because a client represents a minority, such as the gay population, is repugnant to the notion of all citizens having equal rights under the law. Our adversarial legal system bears a striking resemblance to the competitive economic system. In each, we assume that all parties will strive to their utmost and that this striving will yield the greatest benefit to society. I am concerned that passage of the McDonald amendment implies handicapping some and not others and that by thus upsetting the competitive adversarial balance the Congress will be unleashing an arrow into the heart of a legal system founded on the principle of equal protection of fundamental human rights for all.

Mr. RAILSBACK. Mr. Chairman, would the gentleman yield?

Mr. LEACH of Iowa. I would be delighted to yield.

Mr. RAILSBACK. I thank the gentleman for yielding. I think that it takes a great deal of courage on his part to make the statement that he has made and I think that he is absolutely right. I concur with his comments and I just want to commend him for them.

Mr. LEACH of Iowa. Well, I thank the gentleman.

Mr. Chairman, I urge rejection of this amendment.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words. I rise to speak against the amendment.

(Mr. JOHN L. BURTON asked and was given permission to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Chairman, we could spend some time going over the flawed language of the amendment. I did not know that the Legal Aid Society promotes homosexuality. I do not know if they promote anything. I think all they are is attorneys trying to act under the law; but as I said last year, this is about the most outrageous amendment that has ever been brought before the House of Representatives. We are telling a group of American people who are taxpayers, who have a lifestyle that people do not necessarily agree with, both within the Congress and without the Congress, that they are not really American citizens entitled to protection under the law.

Now, this bill is funded with American taxpayers' dollars. In the district that I represent, a great number of the small businesses, a great number of the restaurants, a great number of the boutiques, a great number of the barbershops and beauty shops are operated and owned by gay individuals, who pay more taxes than many of the people sitting in this body and who are responsible citizens in their community as any of us sitting in this body. We are saying to them that we will take your taxes, regardless of your sexual preference, but if there is a gay person who needs legal aid, we are not going to take care of them.

Well, I think this amendment is flawed in one basic way. We should say that anybody who has a sexual preference that is not heterosexual does not have to pay taxes that go to fund the Legal Services Corporation and maybe we will have some equity.

It is an outrage to the citizens of my community that I represent. It is an outrage to the straight people in the community that I represent, because we have learned that gay people fall into the same category as straight people. Some of them are jerks and some of them are not. That is the definition. It is no different than the color of their hair.

To single out this group is very politically popular for some. Or after all, some are saying that it is a sin to have this type of sexual preference where

you can find some terms in the Bible that relate to the fact that I guess some of the people in the Bible might have sinned. I just do not think it is fair. It is not right. It is unconscionable. And, again, the taxpayers in my district who are gay—and they are proud to be gay—are out of the closets. After an elected official in our city who was gay was shot down and murdered in city hall, there were doctors, lawyers, professors, and even politicians who came out of the closet to proclaim their sexual preference, because they thought it was time to rid themselves of whatever guilt they were holding within by hiding in the closet and to proclaim that they were no different from anybody else when they were out on the street working and paying taxes.

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I would be happy to yield.

Mr. McDONALD. I thank the gentleman for yielding.

I would like to point out that many members of organized crime pay taxes, perhaps not as much as they should pay, but nevertheless generally pay taxes. I do not think that many in this body or many Americans believe, however, that the taxes of this country should be used to promote the programs and attitudes and protection of organized crime activity.

Mr. JOHN L. BURTON. Well, if I can reclaim my time, I will give the gentleman \$1,000 if he can show me under U.S. statutes where having a different sexual preference from yours is a felony and a crime—organized or disorganized. Some of it is organized.

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. Yes.

Mr. McDONALD. The matter of homosexual activity is listed as a violation of numerous State statutes across this country.

Mr. JOHN L. BURTON. We are talking about Federal law here. We do not infringe upon States rights. I am surprised if my friend from Georgia would infringe on States rights.

Mr. McDONALD. Well, I agree. I do not think we should. This is one of the reasons I have offered this amendment.

Mr. JOHN L. BURTON. Well, now, if the gentleman wants, I will be happy to enter into a little colloquy with him. The gentleman's amendment does not say that a person caught violating a law against, shall we say, sexual acts with a member of the same sex is denied legal aid under this. It says in effect that even if there is a nondiscrimination clause in a community that says you cannot discriminate—

The CHAIRMAN pro tempore. The time of the gentleman from California has expired.

(By unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 4 additional minutes.)

Mr. JOHN L. BURTON. But if there is a nondiscrimination clause in a city or a State about gay people being able to have access to a restaurant or even to rent a unit, that somehow they are denied the right to have legal representation to enforce a local bona fide ordinance.

Now, this does not say you cannot defend somebody who is out in front of the Capitol committing an act of sodomy. It is not limited that way. It is a very broad thing that just lets everybody say it is just a whack at people who happen to have different sexual preferences.

In many States now, acts between consenting adults in private is not a crime. In fact, in the State of Virginia it is a crime for a person of the opposite sex to massage a person of the opposite sex, but it is not a crime for a man to massage a man or a woman to massage a woman, and we know what that might lead to.

So I think that the States are getting away from making homosexuality per se a crime and they are making certain things like sodomy out on the Capitol steps or acts in public a crime.

I think this is a terrible amendment. It is an outrageous amendment. I believe it would be an unconstitutional amendment.

I know, as I say, that many of the taxpayers and the business people in my community are gay. If you look throughout the arts, you can find people who have confessed themselves to having a different sexual preference, many of them making salaries in the millions of dollars, and figure out how much taxes they pay. I think it is an insult, and to equate gay people with organized crime just reduces to absurdity, but points out the absurdity of this amendment.

I would ask an overwhelmingly no vote.

I thank the gentleman for his comments.

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words. I rise to speak against the amendment.

Mr. Chairman, Members ought to be clear that they are not voting now on whether or not they like homosexuality. The language in the bill clearly says that none of these funds shall be used to advocate on behalf of the legalization of homosexuality. To the extent that that is the issue, the language in the bill takes care of it. What is at issue are two things; one, regulations, regulations which have all the reality of unicorns, because these are regulations that were proposed which the Reagan board will have to dispose of. If anyone thinks he or she has to vote to prevent the Reagan board from adopting these regulations, he or she has spent the last year in a time capsule, which may, in fact, be the most attractive place to have spent it.

So the regulations clearly have no reality, will have no reality, and are a complete throw-in. Therefore, the difference between the language in the bill and the language in the amendment is as follows: It is not clear what the language in the amendment means and there are constitutional rules that will apply. It is conceivable, however, that it could be applied to say that in any lawsuit in which homosexuality was alleged, Legal Services people could not get involved.

I quote now the gentleman from Illinois (Mr. HYDE) in Committee, who spoke very strongly against this particular amendment. The gentleman from Illinois (Mr. HYDE) spoke in favor of leaving the language as it was and against this particular amendment and he pointed out that he as a lawyer was proud of the legal system of the United States and was not prepared to deny people access to it. He pointed out correctly that what this language does as proposed is to allow any clever lawyer to deny an impoverished person Legal Services representation in some cases by fabricating or putting into a case an issue of sexual preference. If there is a landlord-tenant dispute and a clever lawyer for the landlord wants to make that implication, it is conceivable in some courts, and we are dealing here with rather loosely drawn language and I hope it will not be interpreted to mean that, but no one would say right now for sure that it could not be interpreted that way. You could find that the individual tenant would find himself or herself deprived of legal assistance, because if he or she were alleged to be homosexual and that was mentioned by the opposing attorney, no matter what the merits of the case, the landlord would say, "I don't like this person because of his or her sexual preference," and the language of the gentleman from Georgia could lead to the Legal Services attorney having to withdraw. That was the point the gentleman from Illinois (Mr. HYDE) made and he made it quite accurately. That is why the Judiciary Committee overwhelmingly rejected this.

Now, the committee also rejected an amendment which I offered, and I live by that, to strike the committee language on this issue. I do not accept the point of the language as is, but that is where the majority voted; but we ought to be clear that there is, in fact, no question here of whether or not people are voting to allow the advocacy of homosexuality.

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Georgia.

Mr. McDONALD. I appreciate the gentleman yielding.

The committee amendment does nothing of substance on the issue of homosexuality.

□ 1045

The committee language is as follows:

Funds may not be used "to provide legal assistance for any litigation which seeks to adjudicate the legalization of homosexuality."

Another way to state this case is that funds may not be used to provide legal assistance for any litigation which seeks to adjudicate the decriminalization of homosexuality.

The Legal Services Corporation is already barred from involving itself in criminal proceedings by their enabling legislation; proceedings where the issue of decriminalization might be argued.

Therefore, the committee's amendment does little more than reiterate the present statute. It in no way addresses the advocacy of homosexual conduct as a civil right. It in no way addresses litigation by the Legal Services Corporation where they seek to impose acceptance of homosexual conduct on an employer, landowner, school district, or the public at large.

The committee amendment in no way stops the promulgation of regulations by the Legal Services Corporation that seek to impose on all legal aid societies the acceptance of homosexual conduct as a civil right.

My language is, therefore, necessary to stop the advocacy of homosexuality as a public issue. The committee's language in no way addresses this subject.

I thank the gentleman for yielding.

Mr. FRANK. If I can take back my time, I congratulate the gentleman on the brilliance of that maneuver. What the gentleman has done is to redefine the language in the amendment, and then the gentleman beats the heck out of the language that he has redefined and invented, and I concede that is easy to do. The language did not talk about decriminalization, it talked about legalization. That does not simply mean criminal.

There are references to the question of sexual orientation from a legal standpoint in many civil statutes, in the immigration statutes and others. We deal with that. As I say, what the gentleman did was to redefine the amendment, strike the word "legalization," and put in the word "decriminalization."

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts has expired.

(By unanimous consent Mr. FRANK was allowed to proceed for 2 additional minutes.)

Mr. FRANK. I concede that the gentleman from Georgia (Mr. McDONALD), having redefined the language, ignored the language in the bill and made a brilliant point in denouncing his own language. I would join with him in the criticism of his own language.

But I would point out his language has little to do with the bill.

The other red herring, is the question of the regulations, if the Reagan 11 appointees, who will probably be Howard Phillips and 10 of his clones, were going to adopt these regulations, then the gentleman would have reason for concern, but I suggest this is hardly a serious matter for us to discuss.

The question remains, as the gentleman from Illinois pointed out in our committee and, as I said, he would have mentioned if he had been on the floor today, the fact is we now have in the bill language which says that the Legal Services money should not be used for general advocacy of changing the legal status of homosexuality. The law says that. The law as it is before my colleagues today says Legal Services funds shall not be used for advocacy to legalize homosexuality, and that has been in the law.

If, by the way, that law had been transgressed we would have heard about it. In the big parade of horror stories that surround the bill there were none about the misuse of funds for this purpose, so what remains before us is, are we going to accept language from the gentleman from Georgia, not which says they should not get involved in advocating a legal status for homosexuality, because that is before you, but a law that is loosely drawn which would disallow representation of impoverished persons, bar lawyers from Legal Services from becoming involved in cases in which they should be involved.

AMENDMENT OFFERED BY MR. WEISS TO THE
AMENDMENT OFFERED BY MR. McDONALD

Mr. WEISS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. WEISS to the amendment offered by Mr. McDONALD: In subsection (g) strike the words "defend, or protect" and insert in lieu thereof the words "the legalization of".

Mr. WEISS. Mr. Chairman, at the outset let me indicate that this amendment is similar to one that was conceived by Mr. HYDE. I want to give him full credit for the thought and work that he has put into it, but I do not at all suggest this is being done at his request or even upon discussion with him. I am offering it on my own behalf.

Mr. Chairman, what the amendment I offer seeks to do, in essence, is to return this provision of the bill to that which is now in the law. In essence, it would take us back to the original report and legislation that came out of the House Judiciary Committee, which included a provision prohibiting litigation which seeks to adjudicate the legalization of homosexuality. This provision is identical to the language which is currently included in the State, Justice, Commerce, Judiciary, and related agency appropriation bill for fiscal year 1981.

I simply want to state by way of argument that last year when the gentleman from Georgia (Mr. McDONALD)

succeeded in getting the language of his amendment adopted by the House, the Department of Justice wrote a letter to the distinguished member of the other body, Mr. HOLLINGS of South Carolina, in setting forth their opposition and the reasons therefor. Dated August 18, 1980, the letter states:

The amendment is ambiguous. However, if it is construed to deny legal assistance to homosexuals in circumstances where it would be provided to others, then it must be subjected to the constitutionally required due process scrutiny. The amendment must have a rational relation to a legitimate governmental purpose. The Supreme Court recently reiterated and applied this test in its decision upholding the Hyde amendment which restricts Federal funding for abortions.

They cite Harris against McRae, then go on to say:

The legislative history in the House does not identify such a rational basis. In addition, the House amendment's broad phrasing could conceivably implicate first amendment rights in at least some of its application, whereupon a much more stringent standard of review would apply.

They then cite United States against O'Brien.

In a footnote to that paragraph they state—

It is not clear from the language of the amendment or the brief House floor debate what presently permissible activities by the Legal Services Corporation the new provision is designed to preclude. For example, what would be its effect on a client's request for assistance with an alleged violation of a local ordinance or other non-Federal prohibition against discrimination based on sexual orientation? Would it restrict involvement in a child custody case where the sexual preference of one of the parents was among the issues presented?

Those are quotes from the letter of the Justice Department to Senator HOLLINGS.

Mr. Chairman, I think it buttresses the argument that the better part of wisdom is to adopt the amendment I have offered which amends Mr. McDONALD's amendment and leaves the law exactly where it is right now.

Mr. McDONALD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not think it is necessary to take the entire 5 minutes. This is just simply taking my amendment back to the committee language and is really not an amendment to the amendment but merely an effort to revise my amendment back to what the original committee language was. Therefore, technically it probably would have been viewed as out of order.

I yield back the balance of my time.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment of the gentleman from New York (Mr. WEISS).

Mr. Chairman, I do not think the House does itself particularly proud in considering amendments of this kind and certainly not in the way we have done it in the past. My recollection is

that the first time this amendment was offered by the gentleman from Georgia (Mr. McDONALD) was, I believe, two Congresses ago. It came at a time—again if my memory serves correctly—when it was around midnight, all time had expired, there was no further debate on the bill, and it was simply read. Nobody heard it. There were several hundred Members here and we had a record vote. There was not one word of debate. I do not think there was any Member of the House who knew what they were voting on except for the code words of "homosexuality" or "gay rights."

The second time we adopted it, as I recall, was in the last Congress. I believe one person spoke on the amendment in addition to its author. I think—again if my memory serves correctly—it was the gentleman from California (Mr. JOHN L. BURTON). So there was effectively no debate at that time and, again, it was adopted by the House on a record vote.

Members know perfectly well that in the atmosphere of American politics today there are issues of extraordinary emotion. Members know perfectly well that the American political landscape is full of people, regardless of political affiliation, who are prepared to try to play on people's emotions and people's fears and people's insecurities to take advantage of those issues for their own political benefit.

I would beseech this House, when dealing with subjects of consequence, as this is to a very large number of citizens represented, may I say, in roughly equal proportions by every single person who sits in this body, to think carefully at least for a moment—which would be one moment more than most of us thought before adopting these kinds of amendments in previous Congresses.

I think we have made some progress. I think the very fact that there has been some debate here, a reasonably calm and rational debate by the gentleman from Iowa (Mr. LEACH), the gentleman from Illinois (Mr. RAILSBACK), and others who have gotten up and asked the Members of this body to pay some heed to what they do before they act in the heat of political emotion. That is, in itself, an encouraging step forward.

Let me point out two things, one of which has been pointed out before. Existing law, which is repeated by this bill, prohibits any funds to be used, and I quote: "to provide legal assistance for any litigation which seeks to adjudicate the legalization of homosexuality." That is the law, and that would be reiterated again in the law if this bill were to become law itself.

That removes any question or keeps removed, as it already is removed under the law, any question of Legal Services attorneys becoming involved in efforts to overturn whatever State or municipal statutes there may be which ban homosexual activity or,

indeed, to try to enact such statutes. That may be wise, that may not be wise, but that at the moment is the law and that is not at question here.

The second part of the gentleman's amendment, which has not been discussed here, I think makes it quite clear what the gentleman intends to do. Let me say to my colleagues that if they were to read in the RECORD of yesterday the statement of the gentleman from Georgia (Mr. McDONALD) in support of his amendment, they would have no idea in the world of what the second part of his amendment does. The second part of it forbids the promulgation or enforcement of regulations proposed by the Legal Services Corporation on March 23 of this year. As they are described by the gentleman from Georgia (Mr. McDONALD), one might be worried about those regulations. Let me quote from the gentleman in yesterday's RECORD:

The regulations proposed on March 23, 1981, by the Legal Services Corporation, which the second part of my amendment seeks to terminate, have the effect of making certain that funds of this Government could not be expended unless they in fact did promote, defend, or protect the practice or acts of homosexuality. Because this is the apparent opposite of what should be done and the exact opposite of what the House last year declared they wanted done by a vote of 290 to 113, it is clear these regulations in their present form should not be promulgated either.

Let me repeat that the key phrase alleged by Mr. McDONALD with respect to the regulations is that they "have the effect," he said, "of making certain that funds of this Government could not be expended unless they, in fact, did promote, defend, or protect the practice or acts of homosexuality."

Let me read my colleagues one sentence which tells what the regulations, in fact, do, and let us see if this is what my colleagues, as Members of this House, choose to vote against or to forbid being put into effect by an agency of this Government.

I read the introductory sentence in the proposed regulations from the Federal Register of March 23, the statement of purpose, which I can assure my colleagues is simply reiterated throughout the five pages of the regulation. It states:

The purpose of this part is to prevent discrimination by Legal Services programs supported in whole or in part by Legal Services Corporation funds in the delivery of services or in employment on the basis of race, religion, color, sex, age, marital status, national origin, handicap, political affiliation, or sexual orientation.

The key phrase there in the long list of things on account of which discrimination is forbidden, including "sexual orientation," is to "prevent discrimination in the delivery of services or in employment" period. Those are the only subjects to which these regulations are addressed.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts has expired.

(By unanimous consent Mr. STUDDS was allowed to proceed for 2 additional minutes.)

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I am happy to yield to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Chairman, I want to strongly support the statement the gentleman from Massachusetts is making. I want to rise in support of the amendment of the gentleman from New York (Mr. WEISS) and to strongly oppose the gentleman from Georgia's (Mr. McDONALD) amendment. I think the people in this Congress know what is happening here and that at least 90 percent of us know how we should vote on this. I only hope the Members of Congress vote the way they know they should vote.

Mr. STUDDS. Let me thank the gentleman for what he said. Let me share, I think, in his hope that the day will come in this land when it will not take particular political courage to say what the gentleman has just said, what other Members of this House have just said, if for no other reason than I think most Americans are decent and have commonsense and agree with what the gentleman has said. It ought not to take a superabundance of political courage to say what one knows in one's heart is right and what most of the people and their Representatives know perfectly well is right.

I do not believe, let me say in conclusion, for one moment that the Members of this House, if asked individually and personally, one at a time, would say that we ought to deny any possibility of being a recipient of services to an indigent person simply because of his or her sexual orientation. If that is not unconstitutional, it certainly ought to be. If it is not unconstitutional, it is wrong, and mean spirited, and it is unworthy of the Members of this House and of this country.

I would urge the defeat of the amendment of the gentleman from Georgia (Mr. McDONALD).

□ 1100

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong opposition to the amendment offered by the gentleman from Georgia (Mr. McDONALD).

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

Mr. WAXMAN. Mr. Chairman, I rise in strong opposition to the amendment by the gentleman from Georgia. It is a pernicious amendment that really has nothing to do with homosexuality or homosexual rights at all—but an amendment that has everything to do with equal access to the services provided by the Legal Services Corporation.

H.R. 3480 already has a broad prohibition regarding LSC activities and ho-

mosexual rights. Section 11 amends section 1007(b) of the act to provide:

No funds made available by the Corporation ... may be used ... to provide legal assistance for any litigation which seeks to adjudicate the legalization of homosexuality.

I regret the committee felt it necessary to include such a restriction in this bill, because fundamental rights are at stake every day, for some 20 million homosexuals across America, but this provision does remove what some might view as a "political" issue—gay rights—from the scope of the Corporation's activities, which are to provide basic civil legal services to the poor.

It remains that homosexuals, as any other citizens in our country, face potential problems in housing, employment, domestic law, health, consumer complaints, and other issues. They deserve, no less than any other citizens, assistance to cope with these problems when they occur. That is the simple question posed by the McDonald amendment. It is not a matter of gay rights, but the ability of homosexuals to have access to the Legal Services Corporation—just as anyone else in America does.

But what does the McDonald amendment state?

First, it provides that no funds may be used to "provide legal assistance to promote, defend, or protect homosexuality." There is no difference between this language and the provision already in the Committee bill. In this respect, the McDonald amendment is wholly redundant and unnecessary.

Second, it would block proposed rules issued by the Legal Services Corporation on March 23, in so far as they apply to homosexuals.

What do these rules do? Quite simply, they prohibit discrimination in the delivery of services and in employment by the Corporation on the basis of race, religion, color, sex, marital status, national origin, handicap, political affiliation, or sexual orientation.

The McDonald amendment, by barring this proposed rule, excludes homosexuals from having any access to legal services even if their legal needs have nothing to do with their sexual orientation.

Given the prohibitions already in this bill regarding litigation for homosexual rights, I urge the defeat of this amendment. It is a gratuitous and pejorative attempt to deny legitimate legal services to qualified individuals deserving of the basic protections of civil law.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I am pleased to yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I thank the gentleman from California (Mr. WAXMAN) for yielding and commend him on his scholarly analysis of the pending amendments. I rise in support of the amendment by the gentleman from New York (Mr. WEISS) and in op-

position to the amendment offered by the gentleman from Georgia (Mr. McDONALD). The amendment by the gentleman from Georgia does not address gay rights at all. Instead, it is an active attempt to persecute a group of citizens. The basic purpose of this reauthorization is to provide legal assistance to those Americans who would not otherwise be able to afford it. This amendment is directly contrary to that notion that all Americans should be able to have their rights protected in the courts. I am appalled that we would try to single out any class of citizens and deny them their rights and access to the courts.

In addition, the amendment seems to be open to wide interpretation because of its wording. It would be very difficult to define what would be covered by the amendment. It is vague and would not provide adequate guidelines for its intended purpose of enforcement. An amendment which was almost identical was offered by the gentleman from Georgia to an appropriations bill in the last Congress. At that time the Justice Department wrote to a Member of the other body that—

The amendment is ambiguous. However, if it is construed to deny legal assistance to homosexuals in circumstances where it would be provided to others, then it must be subjected to the constitutionally required due process scrutiny. The amendment must have a rational relation to a legitimate governmental purpose. . . . The legislative history in the House does not identify such a rational basis. In addition, the . . . amendment's broad phrasing could conceivably implicate First Amendment rights in at least some of its applications, whereupon a much more stringent standard of review would apply.

The gentleman from Massachusetts (Mr. STUBBS) was most reasonable and articulate in his remarks a few moments ago and I wish to associate myself with his comments. He recounted the history of this amendment in the 95th and 96th Congresses. To correct him on one small point, there were two Members of this body who spoke against the amendment in the last Congress, instead of only one as the gentleman had recalled. The gentleman from California (Mr. JOHN L. BURTON) spoke against the amendment at that time and I also urged its defeat, calling the amendment "shocking."

In conclusion, let me simply reiterate that it would be unconscionable for us to deny legal protection of rights to any class of citizens, whether it be because of their sexual orientation, race, religion, or other arbitrary factors. I urge adoption of the amendment by the gentleman from New York and rejection of the amendment by the gentleman from Georgia.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. WEISS) to the amendment offered by the gentleman from Georgia (Mr. McDONALD).

The question was taken; and on a division (demanded by Mr. WEISS) there were—ayes 12, noes 11.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 151, noes 245, answered "present" 2, not voting 33, as follows:

[Roll No. 84]

AYES—151

- | | | |
|-----------------|---------------|---------------|
| Addabbo | Ferraro | Murphy |
| Anderson | Fiedler | Nowak |
| Aspin | Findley | Oakar |
| Barnes | Fish | Oberstar |
| Bedell | Florio | Obey |
| Bellenson | Foglietta | Ottinger |
| Benjamin | Ford (MD) | Panetta |
| Blaggi | Ford (TN) | Patterson |
| Bingham | Forsythe | Pease |
| Blanchard | Frank | Pepper |
| Boggs | Gejdenson | Peysner |
| Boland | Gilman | Pritchard |
| Bolling | Goldwater | Railsback |
| Bonior | Gradison | Rangel |
| Brodhead | Green | Ratchford |
| Brown (CA) | Guarini | Reuss |
| Brown (OH) | Hall (OH) | Richmond |
| Burton, Phillip | Heckler | Rodino |
| Chisholm | Heftel | Rosenthal |
| Clay | Hertel | Roukema |
| Coelho | Howard | Roybal |
| Collins (IL) | Hoyer | Russo |
| Conte | Hughes | Sabo |
| Coyne, James | Hyde | Sawyer |
| Coyne, William | Jacobs | Scheuer |
| Crockett | Jeffords | Schneider |
| D'Amours | Kastenmeier | Schroeder |
| Danielson | Kildee | Seiberling |
| Daschle | Kogovsek | Shannon |
| Deckard | Leach | Sharp |
| Dellums | Leland | Smith (IA) |
| DeNardis | Lewis | Stark |
| Derrick | Long (LA) | Stokes |
| Dixon | Lowry | Studds |
| Donnelly | Lujan | Swift |
| Dorgan | Lundine | Synar |
| Downey | Marks | Tauke |
| Dunn | Martin (IL) | Traxler |
| Dwyer | Matsui | Udall |
| Dymally | Mattox | Vento |
| Early | Mavroules | Washington |
| Edgar | McCloskey | Waxman |
| Edwards (AL) | McHugh | Weaver |
| Edwards (CA) | McKinney | Weiss |
| Erdahl | Mikulski | Williams (MT) |
| Erlenborn | Miller (CA) | Wirth |
| Ertel | Mineta | Wolpe |
| Evans (IN) | Mitchell (MD) | Wyden |
| Fascell | Moakley | Yates |
| Fazio | Moffett | |
| Fenwick | Molinari | |

NOES—245

- | | | |
|-------------|---------------|--------------|
| Akaka | Brown (CO) | Derwinski |
| Albosta | Eroyhill | Dickinson |
| Alexander | Burgener | Dingell |
| Andrews | Butler | Dornan |
| Annunzio | Byron | Dougherty |
| Anthony | Campbell | Dreier |
| Applegate | Carman | Duncan |
| Archer | Carney | Dyson |
| Ashbrook | Chappell | Edwards (OK) |
| Atkinson | Cheney | Emerson |
| Bafalis | Clausen | Emery |
| Bailey (MO) | Clinger | English |
| Bailey (PA) | Coats | Evans (DE) |
| Barnard | Coleman | Evans (GA) |
| Beard | Collins (TX) | Evans (IA) |
| Benedict | Conable | Fary |
| Bennett | Corcoran | Fields |
| Bereuter | Coughlin | Flithian |
| Bethune | Courter | Flippo |
| Bevill | Craig | Foley |
| Billey | Crane, Daniel | Fountain |
| Boner | Crane, Philip | Fowler |
| Bonker | Daniel, Dan | Frost |
| Bouquard | Daniel, R. W. | Fuqua |
| Bowen | Dannemeyer | Gaydos |
| Brinkley | Daub | Gephardt |
| Brooks | Davis | Gibbons |
| Broomfield | de la Garza | Gingrich |

- | | | |
|---------------|---------------|---------------|
| Ginn | Marlenee | Schulze |
| Glickman | Marriott | Sensenbrenner |
| Goodling | Martin (NC) | Shamansky |
| Gore | Martin (NY) | Shaw |
| Gramm | Mazzoli | Shelby |
| Gregg | McClory | Shumway |
| Grisham | McColum | Shuster |
| Gunderson | McCurdy | Siljander |
| Hagedorn | McDonald | Simon |
| Hall, Ralph | McEwen | Skeen |
| Hall, Sam | McGrath | Skelton |
| Hamilton | Mica | Smith (AL) |
| Hammerschmidt | Michel | Smith (NE) |
| Hance | Miller (OH) | Smith (NJ) |
| Hansen (ID) | Minish | Smith (OR) |
| Hansen (UT) | Mitchell (NY) | Snowe |
| Hartnett | Montgomery | Snyder |
| Hatcher | Moore | Spence |
| Hefner | Moorhead | St Germain |
| Hendon | Morrison | Stangeland |
| Hightower | Motti | Staton |
| Hiler | Murtha | Stenholm |
| Hillis | Myers | Stratton |
| Holland | Napier | Stump |
| Holt | Natcher | Tauzin |
| Hopkins | Nelligan | Taylor |
| Horton | Nelson | Trible |
| Hubbard | Nichols | Vander Jagt |
| Huckabay | O'Brien | Volkmer |
| Hunter | Parris | Walgren |
| Hutto | Patman | Walker |
| Ireland- | Paul | Wampler |
| Jeffries | Petri | Watkins |
| Jenkins | Pickle | Weber (MN) |
| Johnston | Porter | Weber (OH) |
| Jones (NC) | Price | White |
| Jones (OK) | Pursell | Whitehurst |
| Jones (TN) | Quillen | Whitley |
| Kazen | Rahall | Whittaker |
| Kemp | Regula | Whitten |
| Kindness | Rhodes | Williams (OH) |
| Kramer | Rinaldo | Wilson |
| LaFalce | Ritter | Winn |
| Lagomarsino | Roberts (KS) | Wolf |
| Latta | Roberts (SD) | Wortley |
| Leath | Robinson | Wright |
| LeBoutillier | Roe | Wylie |
| Lee | Roemer | Yatron |
| Lent | Rose | Young (AK) |
| Levitas | Rostenkowski | Young (FL) |
| Loeffler | Roth | Young (MO) |
| Lott | Rousselot | Zablocki |
| Lowery | Rudd | Zeferetti |
| Lungren | Santini | |

ANSWERED "PRESENT"—2

- Burton, John Gonzalez

NOT VOTING—33

- | | | |
|---------|------------|----------|
| AuCoin | Harkin | Mollohan |
| Badham | Hawkins | Neal |
| Breaux | Hollenbeck | Pashayan |
| Chappie | Lantos | Perkins |
| Conyers | Lehman | Rogers |
| Cotter | Livingston | Savage |
| Dicks | Long (MD) | Schumer |
| Eckart | Luken | Solarz |
| Frenzel | Madigan | Solomon |
| Garcia | Markey | Stanton |
| Gray | McDade | Thomas |

□ 1115

The Clerk announced the following pairs:

On this vote:

- Mr. Gray for, with Mr. Solomon against.
- Mr. Garcia for, with Mr. Rogers against.
- Mr. Solarz for, with Mr. Livingston against.
- Mr. Lehman for, with Mr. Madigan against.
- Mr. Hollenbeck for, with Mr. Badham against.
- Mr. COLLINS of Texas and Mr. RAHALL changed their votes from "aye" to "no."
- Messrs. PEPPER, LUJAN, MOLINARI, and LEWIS changed their votes from "no" to "aye."
- Mr. GONZALEZ changed his vote from "no" to "present."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WEAVER. Mr. Chairman, I move to strike the last word.

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

Mr. WEAVER. Mr. Chairman, I strongly urge a "no" vote on the McDonald amendment to the Legal Services reauthorization bill, H.R. 3480. This amendment is discriminatory to the extreme.

Proper redress of grievances depends entirely upon equal, fair, and impartial access to the law. Legal services based on full recognition of our citizens' right to due process of law is essential. It is a privilege that this democracy must protect. I can think of no better way to protect that privilege than to defeat the McDonald amendment.

Those who support the McDonald amendment are, in my opinion, attempting to deny equal access to the law to a group of citizens whose political or personal philosophies and ways of life they do not happen to agree with. Nothing could be more contrary to the spirit of our democracy.

Equal access to the law is one of the fundamental principles on which this Nation was founded. Therefore, I ask my colleagues, how can this body attempt to deny that principle of equal justice under the law to any group of citizens? I find this move to deny access to our legal system profoundly disturbing and contrary to this Nation's most basic precepts.

Those who are advancing the McDonald amendment are attempting to use the Legal Services Corporation as a forum for pressing their own political philosophies at the expense of millions of our citizens and to the point of jeopardizing the integrity and quality of our system of justice. Eligibility for legal assistance should not be based on whether a person's legal problems raise questions that are politically unpopular; especially now, at a time when this country is undergoing a reexamination of a body of laws that deeply affect each of us—laws concerning civil liberties, basic public benefits, and consumer and worker protection. The availability of high-quality legal representation is even more essential now, as these long-standing programs and policies face serious challenges and changes.

The Legal Services Corporation is the product of a wise decision by the Congress to attempt to insulate the provision of legal assistance to the poor from political considerations. A prohibition of the kind proposed by the McDonald amendment would subject poor persons seeking legal assistance to the test of whether their legal problem was politically acceptable. This is directly contrary to the intent of Congress when it established the Legal Services Corporation. I strongly

protest any effort by this body to subject those who seek legal assistance to any sort of political litmus test. History has shown us, on far too many occasions, that discrimination and abuse closely follow limitations on access to justice. This must not begin here.

In the strongest possible terms, I urge my colleagues to oppose the McDonald amendment and support the reauthorization of the Legal Services Corporation.

Mr. BUTLER. Mr. Chairman, I move to strike the last word.

Mr. MOFFETT. Mr. Chairman will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Connecticut.

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

Mr. MOFFETT. Mr. Chairman, This debate is really about political power in our society and about who gets access to the system and who does not.

There are those among us who would argue that equal and fair distribution of justice can be entrusted to the invisible hands of a free market. But I ask you: If one man is denied justice by the social arrangements of his society, then can his society claim to be a just one?

Let me use a few vivid examples from the city that sits outside these doors. There is a man known as Tyrone. He was drafted into the Army in 1969 and there began exhibiting the first signs of schizophrenic behavior. This behavior causes him to hear voices which command him to strike out at people. Tyrone struck an officer and received a general discharge. He was ruled ineligible for veterans' benefits. Now he lives in the streets. His psychological condition is manageable with medication, yet he is not under the care of a VA doctor. He has no health insurance. He can afford to pay no attorney to have his discharge reviewed. And there are those who would tell us that Tyrone's case is not an appropriate one for a Legal Services Corporation attorney to undertake. What proportion of social justice is being allocated in these halls to Tyrone and similarly situated American Veterans? Is Tyrone's share equal to mine and yours?

The sleeping principles that fail to distribute social justice and victimizes Tyrone renders Steve powerless as well. Steve lives in this Capital City also. He sought help to cure a drug addiction and was told to report to the city's drug abuse diagnostic clinic. He arrived at 7:45 a.m. and found 23 other addicts in line. The city can provide drug detoxification for only six people a day. Steve and 16 others were turned away to fend for themselves. Those who would blame Steve for his drug addiction and accept no financial responsibility for his treatment ignore at their own peril the social costs of not heeding a cry for help from a \$300 a day heroin addict.

In an ironic twist, their good lives and property become a surety to finance the illness of one they chose to not help. Yet there are those among us who would tell us that a Legal Services Corporation attorney could not give of his time and talent to help Steve and others similarly situated or that Federal budget constraints make it impossible.

Is it necessary that the Government address the needs of Tyrone and Steve? Political Scientist Harry Eckstein argues that justice remains the principal function of government and is the only "awesome power" that remains to the State.

If the provision of social justice is the chief source of legitimization for democratic government, are Tyrone and Steve to expect a disproportionate allocation? If they are denied access to justice do we all not maintain, at best, mere access to something less than a just society?

There are those who would tell us that the November elections voiced the conviction of our people that the social programs of our Government are costly antagonists to our personal freedom. They would tell us that we can no longer afford to provide access to institutions of justice for those who cannot provide them for themselves. They would hide behind this argument to preserve themselves from their own fear that their relative position would diminish as others secure the blessings of justice. But Tyrone only wants his veterans' benefits. And Steve only wants help to become drug free. Steve and Tyrone have little voice in the deliberations of this assembly. But the silent screams of Tyrone and Steve and others in their condition will eventually become deafening and this great body will find it impossible to listen to the stupefying voices who would deny a truly just society to us all for the sake of saving a few dollars for a few who currently have a voice among the powerful.

Mr. BUTLER. Mr. Chairman, I am concerned about the present state of this amendment. I want to be clear in my own mind as to the intention of the gentleman who has offered it.

Would an admitted homosexual otherwise qualified for the services of the Legal Aid Corporation, be, by virtue of the fact that he is a homosexual, denied the services of the Corporation?

I yield to the gentleman from Georgia (Mr. McDONALD) so that he may answer the question.

Mr. McDONALD. Mr. Chairman, the amendment is not designed to stop homosexuals from getting a defense on traffic violations, et cetera.

The Legal Services Corporation is required to represent people in a certain economic class. The amendment states that funds cannot be used to protect homosexuality. It does not prohibit the use of funds to protect a homosexual per se.

No person need suffer discrimination if they keep their conduct in their private lives. A vote "yes" on the upcoming amendment will stop taxpayers' dollars from being spent to promote, protect or defend homosexuality as a lifestyle.

Mr. BUTLER. It is a fair statement, I think, to paraphrase what the gentleman has said, that he would not be denied the services of the Corporation.

Mrs. FENWICK. If the gentleman will yield, I still have questions, because there are more problems than traffic violations.

What I would like to know is: Suppose a homosexual is accused of a homosexual offense and he is indigent and qualifies and is eligible under the criteria. Certainly we cannot deny him legal services aid. Support it is a civil and not a criminal statute.

□ 1130

Mr. BUTLER. The gentlelady realizes of course that the Legal Services Corporation is limited to civil actions.

Mrs. FENWICK. I am talking about civil actions.

Mr. BUTLER. I would yield to the gentleman from Georgia to answer the gentlewoman's question.

Mrs. FENWICK. There have been famous civil actions between homosexuals that appeared in the newspapers just recently. Suppose one of them had no money. What can one do? Would no legal aid services be available if the case is a civil case involving homosexuality?

Mr. McDONALD. If there is a criminal case involved—

Mrs. FENWICK. Civil.

Mr. McDONALD. The homosexual involved may be able to gain a court-appointed attorney.

Mrs. FENWICK. Suppose it is a civil case?

Mr. McDONALD. In the case of a civil case the taxpayers' money would not be used to defend homosexuality or a homosexual's lifestyle.

Mrs. FENWICK. I am not saying homosexuality or lifestyle. I am saying an individual who is homosexual.

Mr. McDONALD. As long as the individual does not interject his lifestyle or interject homosexuality into the case, he may gain the support of the Legal Services Corporation.

Mrs. FENWICK. But if there is a conflict between two people, he may not have interjected his lifestyle into the public, but he may be in trouble with another individual.

Is the gentleman saying therefore that no one accused in a civil court who is a claimed homosexual can get defense on a cause involving a homosexual claim?

Mr. McDONALD. If the person does not inject the issue of homosexuality and if the issue does not involve litigation or promotion or protection of homosexuality—

Mrs. FENWICK. Suppose it has nothing to do with promotion? Suppose it has to do with the protection of a homosexual individual?

Mr. McDONALD. As long as that individual does not present homosexuality into the case as a point of defense or as a matter for the case to promote, then the person would fall under the Legal Services Corporation.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I will be glad to yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

I would like to ask the gentleman from Georgia (Mr. McDONALD) a question. I think we had better nail this down. What if a person were fired from his job because of his homosexual tendencies or appearance, even. Could not a Legal Services lawyer defend on the ground that this circumstance is not relevant or related to that person's job? The gentleman would not debar the defending of a homosexual so long as—

The CHAIRMAN pro tempore. The time of the gentleman from Virginia (Mr. BUTLER) has expired.

(At the request of Mr. HYDE and by unanimous consent, Mr. BUTLER was allowed to proceed for 2 additional minutes.)

Mr. HYDE. If the gentleman will continue to yield, it is the condition of homosexuality that the gentleman does not want defended or promoted, but the individual homosexual who may have a legal problem is to be distinguished from the cause or the lifestyle of homosexuality; is that not true?

Mr. McDONALD. That is the intention of this amendment.

Mr. HYDE. I thank the gentleman.

The CHAIRMAN pro tempore. The gentleman from Virginia (Mr. BUTLER) has 1 minute remaining.

(By unanimous consent, Mr. BUTLER was allowed to proceed for 2 additional minutes.)

Mr. BUTLER. I want to call the attention of the gentleman from Georgia to the second portion of his amendment dealing with the rules of the Corporation. I would like to make the gentleman aware that the rules which were promulgated, we are told by officers of the Corporation, were required by the laws of the District of Columbia which charters the Legal Services Corporation.

I would like to make perfectly clear on the record that it is the intention of the gentleman from Georgia to say that no such rules may be issued, the laws of the District of Columbia notwithstanding; is that correct?

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Georgia.

Mr. McDONALD. That is correct.

Mr. BUTLER. So it is the gentleman's intention that no rules in this area may be issued by this Corporation by this amendment?

Mr. McDONALD. That is correct.

Mr. PHILLIP BURTON. Mr. Chairman, I move to strike the requisite

number of words and I rise in opposition to this amendment.

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

Mr. PHILLIP BURTON. Mr. Chairman, I strongly oppose passage of the McDonald amendment. The amendment would place the House on record as denying full access to the legal system to a specific minority. Further, the vague, ill-considered language of the amendment would allow assaults on the rights not only of homosexuals, but of anyone correctly or incorrectly identified as homosexual. This amendment is yet another in a series of malicious attacks on gay citizens throughout the Nation and in my home city of San Francisco.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment and I would like the opportunity to follow up on what the gentlewoman from New Jersey has said and ask the author of the amendment a couple of questions.

To follow up on what the gentleman from Illinois (Mr. HYDE) and the gentlewoman from New Jersey (Mrs. FENWICK) have asked, if an individual is discharged from his job because of homosexuality, alleged or otherwise, would the Legal Services Corporation be allowed to defend that individual if a case were brought on job discrimination?

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Georgia.

Mr. McDONALD. Not if homosexuality is used by the defendant as a legitimate defense of a lifestyle.

Mr. MILLER of California. If a person were discharged from a job because he was black, would the Legal Services Corporation be allowed to defend that individual?

Mr. McDONALD. If that individual falls within the certain economic class.

Mr. MILLER of California. But if the individual falls within that certain economic class and he has been discharged because of alleged homosexuality or homosexuality in fact, he would not receive the protection of Legal Services Corporation even if that person were indigent?

Mr. McDONALD. That is correct.

Mr. MILLER of California. If an individual were denied access to a supermarket to purchase food and the owner of the supermarket did not want to let him in because he was homosexual, would that individual, assuming the economic qualifications, have the right to services under the Legal Services Corporation?

Mr. McDONALD. Well, it is difficult to imagine such a case of someone not being allowed to buy goods at a supermarket, and I do not know how a homosexual going in to buy groceries

might enter into the purchase of items in a supermarket.

Mr. MILLER of California. Let me ask the gentleman, if that is difficult for the gentleman to imagine, why does not the gentleman tell us what he imagines will be the effect of this amendment and what is the history and the evidence that causes this amendment to come to the forefront?

Mr. McDONALD. The amendment will not stop homosexuals from getting a defense on a traffic violation or other areas dealing with the law.

Mr. MILLER of California. What if the individual alleges the policeman gave the ticket because he does not like homosexuals?

Mr. McDONALD. I am not aware that that is a traffic violation.

Mr. MILLER of California. If the gentleman will listen to my question, if the person alleges that the traffic ticket was given to him because the officer does not like homosexuals, and that individual believes he has a case of discrimination, just as members of minority groups have alleged from time to time they have been harassed, they have been stopped, they have been searched and given tickets, that person would be precluded from acquiring the services of the Legal Services Corporation; is that correct?

Mr. McDONALD. In a traffic court, the merits of traffic are involved and not the matter of whether or not a person is a homosexual or not.

Mr. MILLER of California. I believe the person who is arrested is also entitled to a defense as to whether he is guilty of the offense or not.

Mr. McDONALD. I have already answered the person's statement or question that the matter of homosexuality is not a traffic offense and would not be in a traffic court.

Mr. MILLER of California. But the person would not be allowed that defense and if he raised that defense he would not be allowed the services of Legal Services Corporation attorneys; is that correct?

Mr. McDONALD. If the particular defendant in the case raised the defense that he was a homosexual and therefore his traffic violation was justified, maybe he was preoccupied with other things, then he would not be given the Legal Service Corporation protection.

Mr. MILLER of California. It is apparent to me, Mr. Chairman, with the laughter on the Republican side of the House, that they consider this blatant discrimination against individuals because of their sexual preference as a laughing matter, as a trite matter. But I would suggest to those individuals that as their constituents are denied the services of the Legal Services Corporation, that they in fact, in this amendment, are condoning a very blatant discrimination against individuals in this country, against the rights of individuals to have legal counsel, against the overwhelming objective of this legislation which is to protect

poor people who have no other access to legal representation.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. I would honestly hope that the House would not condone this kind of discrimination in a statute, when in fact there is little or no evidence as to the need for this kind of restrictive language.

I think we clearly are setting out a mandate for the Legal Services Corporation in what we would like them to do. I think this amendment is just unnecessary and I think it is a cheap shot at the issue of homosexuality.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

May I say that I regret very much that my friend in the well may have engaged in the same kind of activity that he is very much worried about the amendment contributing to. The gentleman is indicting that all of the Republicans are opposed. There were many Republicans who spoke frankly in favor of the Weiss amendment.

Having said that, however, I agree with what the gentleman is saying in respect to what may be some kind of job discrimination, promotion discrimination, cases where the alleged homosexual may be completely innocent and may not even receive any legal assistance from Legal Services when he or she may be indigent.

I think the gentleman has raised some very good examples of instances where this particular amendment could really deprive someone who may be completely innocent from any charges or any allegations.

I hope we reject the amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Let me try to answer the question the gentleman addressed to the gentleman from Georgia. I used to work in a legal aid society. If this amendment had been law then, I could not even give legal representation to such a person charged with a traffic violation so as to take the case to court to ask the judge hold that there was no traffic violation, because I would have to base my plea on the ground that the clients homosexually was the basis for the discrimination, to that extent, I would be defending his homosexuality so I would have to take the position that I could not represent him. In other words, if this amendment passes, the homosexual in this case could not obtain legal counsel so he could even get into court to have it determined whether there was a traffic violation.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

The gentleman from Georgia (Mr. McDONALD) and I just had a conversation. I hate to see us get into the highways and byways of an extremely complicated issue. This amendment is going to pass. Now that it is going to pass, we had better have some legislative history as to just what the gentleman from Georgia (Mr. McDONALD) means.

I am going to ask the gentleman from Georgia (Mr. McDONALD) this: Is the gentleman from Georgia saying that a homosexual is entitled to legal services so long as in the providing of those legal services the lifestyle of homosexuality itself, as distinguished from the individual person, is not promoted and attempted to be legalized, but the homosexual is entitled to a Legal Services lawyer; is that not so?

Mr. McDONALD. That is correct.

Mr. MILLER of California. Let me reclaim my time.

That is all well and good, except that the gentleman from Illinois (Mr. HYDE) started his remarks by saying how complicated this issue was. The point is that this amendment precludes homosexuals from raising what may be legitimate defenses in the cases of job discrimination, harassment by civil authorities, job promotion, discrimination in housing. This precludes them from raising a defense that is available to women, that is available to minorities, that is available to all of us.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. So I think that is what we have to answer. I appreciate what the gentleman from Georgia (Mr. McDONALD) says is the point of this amendment, but that is not in fact what will happen if we adopt the amendment. By this statute we are specifically denying the right of a homosexual individual to raise a defense, a legitimate defense, a recognized defense in cases of discrimination.

But at the moment that individual seeks to raise that defense he is precluded from having an attorney offered to provide services. If that is what the people in this House want to put their mark on, I am very disturbed by that.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

I wonder if I can have the attention of the gentleman from Georgia. I

think the gentleman from California makes a number of very important points. But there is another parameter to this that gave me great concern.

Take the situation of a tenant who is unjustly accused of being a homosexual by his landlord.

□ 1145

What we are saying, in effect, is that that individual cannot secure Legal Services aid to defend himself against that particular charge in a landlord-tenant context, because if the attorney were to advance a defense, first that it is untrue, but second of all, even if it were true it is an unconstitutional deprivation that Legal Services officer could not take the case under the language of the amendment.

I thank the gentleman.

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Georgia.

Mr. FOWLER. Mr. Chairman, I have heard my colleague from Georgia, Dr. McDONALD and I have listened to my colleague from Illinois try to interpret the purpose of this amendment. And I know that we would get wide agreement in this House—as the committee tried to do—that we do not in any way, shape or form get into an area where this House recommends the promotion or defense of homosexuality itself. But that is not the effect of this amendment, and everybody in this House, if they will look at it—lawyer or nonlawyer—knows that. The amendment is simply unconstitutional on its face.

Let me invent a preposterous example of what could happen under this amendment. Let us suppose that a Member of Congress in a public building on the Capitol Grounds was accused of homosexuality and that his accused partner was an indigent. If the McDONALD amendment passes, the Member of Congress could purchase any and all legal counsel and defend himself or herself against that charge. The indigent accused partner would be prohibited in any civil court, in any manner, contrary to the U.S. Constitution in the 5th and the 14th amendments, of having legal representation by the Legal Services Corporation.

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 5 additional minutes.)

Mr. FOWLER. Is that not the case, Dr. McDONALD?

Mr. McDONALD. In a criminal case, he gets a court-appointed lawyer.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Illinois.

Mr. RAILSBACK. For a clarification for the Members, that would likely be a criminal case. We are not talking about criminal cases. We are talking about only civil cases.

Mr. FOWLER. It would not, I say to the gentleman, would not in all circumstances be a criminal case. But without debating all of the possible civil ramifications of my example, move that same example to a question of being fired from a job or thrown out of a leased home if that is more comfortable for the gentlemen.

Mr. MILLER of California. I want to thank the gentleman from Georgia because I think he makes another point, and I do not think this is just a lawyer's hour, but if the charge of homosexuality is raised in the prosecution or in the defense of the landlord or in the defense of the employer, at that point that person has lost his rights to counsel.

If the employer says, "I fired this individual because this individual is a homosexual," then the Legal Services Corporation is put in the position of defending that, and they cannot defend that under this amendment; and the person is precluded from receiving legal counsel. So, you are taking millions of individuals in this country and precluding their right to legal services even though they are eligible because they are indigent. The flowery words of this bill guarantee those fundamental legal rights to every poor person in this country except for one class of people.

Why not do it for blacks? Why do it for women? Why not do it for students, because they drive landlords crazy too in college towns. Why do you not preclude their right to raise the issue that they are students, or that they are minorities, because that is what you are doing here for one group of people. You are putting on the books a statute which sanctions blatant discrimination against an individual because he has chosen a lifestyle which may be of no harm to anybody else at any time, but now can be used as a weapon by any landlord, by any employer who knows that the minute they raise the issue, the individual is precluded from a defense.

If that is how the House of Representatives wants to open this session by telling this country that we sanction discrimination against an individual to preclude him his day in court, God bless you, but not with my vote.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regret that we have, I think, confused the legislative history on this amendment that, if one reads it, it is pretty forthright and pretty clear. Now, I have been talking to Mr. McDONALD, and I think—and I will ask him to agree with me or not—that this is his intention: An individual who is homosexual, an individual who is charged with homosexuality, who was dismissed from his job because he is a homosexual, for some reason or other is discriminated against in housing or whatever, is entitled to a poverty lawyer, a Legal Services lawyer.

The fact that he or she is homosexual is not disqualifying, but what the gentleman means, I believe, is that Legal Services Corporation shall not use their resources and assets to promote the cause of homosexuality as a legitimate legal lifestyle by class action suits or by lobbying or that sort of thing. But people, as distinguished from causes, are entitled to be represented. There are jurisdictions where homosexual activity between consenting adults is legal, and certainly if someone were discriminated against because they were charged with doing something that is legal in a jurisdiction, the poverty lawyer could say, "Look, this is legal, this is not illegal, and there is not a basis for any penalty."

The gentleman would have no objection to that, would he?

Mr. McDONALD. No, that is correct.

Mr. HYDE. What the gentleman wants to stop is lobbying and class action suits to legitimate a lifestyle that the gentleman does not think the taxpayers want to be spending their money for?

Mr. McDONALD. That is correct.

Mr. HYDE. Nothing more and nothing less, is that correct, Mr. McDONALD?

Mr. McDONALD. That is correct.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York. I am sorry, the gentleman from Massachusetts.

Mr. FRANK. The gentleman if forgiven. I move around a lot.

Mr. HYDE. That whole section of the country is a blur to me.

Mr. FRANK. I will forgive the gentleman his regional prejudice and say that I appreciate the job that the gentleman has done in rewriting the McDONALD amendment. Would that the gentleman had in fact written it, but let me ask the gentleman from Georgia if he would have objection to writing down and making his amendment the words the gentleman from Illinois gave us? Why not then amend the language? We have the clerks right here. The gentleman from Illinois can offer that amendment rather than this and reduce the confusion.

Mr. HYDE. I reclaim my time.

The CHAIRMAN pro tempore. The gentleman from Illinois has the time.

Mr. HYDE. I thank the gentleman. I wish we would let well enough alone. We have a firm, unequivocal statement from the gentleman from Georgia as to what he means, and I think that is what the amendment says.

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

Mr. WILLIAMS of Montana. Mr. Chairman, I move to strike the requisite number of words.

If I may have the attention of the sponsor of this amendment for a question, Members from both sides of the aisle have correctly expressed their concerns about the rights of homosex-

uals, but I would like to ask the gentleman a question concerning the rights of people who are not homosexuals.

My constituents are concerned about this, and I do not know the answer, so I would like the gentleman to give it to me. Here is the scenario: A constituent of mine who is not a homosexual but is an indigent is fired from his part-time job, and his employer gives as the reason that he believes that that person is a homosexual, and therefore unable to carry out his duties.

Now, can my constituent go to Legal Services Corporation, and can they serve him? He is not a homosexual; he has been accused of being one.

Mr. McDONALD. The answer to this would be yes.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Montana. I will be glad to yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, in the course of the colloquy between the distinguished gentleman from Illinois and the gentleman from Georgia, apparently there was some rewriting of the explanation of part I of the amendment. I wonder if the gentleman from Illinois and the gentleman from Georgia would engage in a colloquy to equally clarify part II of the amendment?

Now, part II of the amendment that the gentleman from Georgia has offered also says that no funds will be made available to promulgate or enforce the proposed rules of the Corporation which were published in the Federal Register on March 23. Mr. STUDDS had earlier read verbatim the provisions of those regulations, which said that, in essence, the Legal Services Corporation would be required to provide—let me read it:

No person shall be subjected by a recipient to discrimination in the provision of services or employment practices on the basis of race, religion, color, sex, age, marital status, national origin, handicapped, political affiliation, or sexual orientation.

The gentleman from Georgia has offered in part II of the amendment to delete that regulation. What is the impact of overriding those regulations? Would the gentleman from Illinois clarify that, please?

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Montana. Yes.

Mr. HYDE. I am reliably informed that the regulations referred to in part II are going to be withdrawn, so that part of the amendment is irrelevant.

Mr. WEISS. If the gentleman will yield further?

Mr. WILLIAMS of Montana. Yes.

Mr. WEISS. It has not yet been withdrawn by Legal Services Corporation. It is on the books right now.

Mr. HYDE. No, sir.

Mr. WEISS. The amendment of the gentleman from Georgia says that no funds will be made available to pro-

mulgate or enforce those proposed rules. What is his intention in offering that part of the amendment? Can the gentleman clarify that?

Mr. HYDE. If the gentleman will yield, I think at the time this amendment was drafted he felt that those were seriously going to be promulgated and become regulations, but the question is moot.

Mr. WEISS. If the gentleman will yield further, why in fact were they going to be the problem? What is the problem? Can the gentleman explain?

Mr. WILLIAMS of Montana. Reclaiming my time, that goes to the heart of my previous question, so if the gentleman could explain—

Mr. HYDE. Well, what was wrong with those regulations I honestly do not know. All I know is, the point is moot.

Mr. WEISS. Would the gentleman from Georgia explain? Would the gentleman from Georgia explain what his intention was?

The CHAIRMAN pro tempore. The time of the gentleman from Montana has expired.

(At the request of Mr. WEISS and by unanimous consent, Mr. WILLIAMS of Montana was allowed to proceed for 2 additional minutes.)

Mr. HYDE. Would the gentleman from Georgia consider a unanimous-consent motion to strike section II from his amendment?

Mr. WEISS. Will the gentleman yield?

Mr. WILLIAMS of Montana. I yield to the gentleman.

Mr. WEISS. Would the gentleman from Georgia explain what he meant by part II of his amendment, and why he refuses to withdraw it as the gentleman from Illinois has requested?

Mr. McDONALD. The purpose of this part is to prevent discrimination by legal services programs or in employment by legal aid societies on the basis of sexual orientation. This would apply to three different cases:

First. A homosexual wanting help on a traffic ticket.

Second. A homosexual attorney who wants to be hired by a legal aid society.

Third. A homosexual who needs help in a discrimination suit based upon employment or housing generally.

The first part of my amendment really addresses B and C—no funds can be used to promote, defend, or protect homosexuality.

□ 1200

Mr. WEISS. Mr. Chairman, will the gentleman yield for a moment?

Mr. McDONALD. Let me finish this first. Let me try to answer the gentleman's question.

Mr. WEISS. Mr. Chairman, I would be pleased to have the gentleman continue, but I would like some clarification.

The CHAIRMAN pro tempore. The Chair will state that the gentleman

from Montana (Mr. WILLIAMS) controls the time.

Mr. WILLIAMS of Montana. Mr. Chairman reclaiming the balance of my time, I yield further to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, I had a great deal of difficulty—and perhaps other Members of the House did also—in understanding what the gentleman from Georgia was saying. Would he do us the courtesy of explaining in slow, clear language what he intended by part (2) of his amendment?

Mr. McDONALD. Mr. Chairman, if the gentleman from Montana (Mr. WILLIAMS) will yield, and if I may complete my statement for the gentleman from New York (Mr. WEISS), the first part of my amendment really addressed portions B and C—no funds will be used to promote, defend, or protect homosexuality. A homosexual could not seek legal aid if he was discriminated against based upon his sexual orientation by either a legal aid society or an outside employer, landowner, and so forth. It has been interpreted and written so that it would be interpreted to stop forced acceptance of open homosexual conduct. If an individual openly professes this conduct and is discriminated against, we do not want him to have legal aid in his defense to compel acceptance of his open conduct.

If, on the other hand, he keeps his conduct to himself and does not bring it into issue, then he can walk into any legal aid society as a private individual and get help on a traffic ticket or assault case or even be hired by them.

A homosexual who wants help on a traffic ticket can now be discriminated against. This sounds terrible but a crucial question must be asked. Who was responsible for bringing into issue the man's homosexuality? If the individual seeking help has done so, discrimination is consistent with our end. If the attorney from whom the help is sought injects the issue based upon conclusive information, a consistent end is still arrived at. If the attorney injects the issue based upon mere suspicion and the person is discriminated against, his position is no worse than one which any of us might find ourselves in simply because another individual doesn't like the way we look.

The long and the short of the matter is that those who openly profess and promote homosexual conduct do not deserve protection of that conduct under law. This is my intention. If they want to keep their conduct in their private lives and not bring it into issue publicly, they have the same rights as any other individual for protection under law whether it be help on a traffic ticket, a case of assault, robbery, or whatever.

My amendment stops any public promotion of homosexual conduct. Defeating the promulgation of the regulations has the same effect. Any individual who brings into issue his homo-

sexual conduct cannot receive protection under law. If they keep their conduct to themselves, they obviously have the same rights of any other individual in society.

The CHAIRMAN pro tempore. The time of the gentleman from Montana (Mr. WILLIAMS) has expired.

Mr. WEISS. Mr. Chairman, I ask unanimous consent that the gentleman from Montana (Mr. WILLIAMS) be allowed to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. DOUGHERTY. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to request that the gentleman from Georgia (Mr. McDONALD) resume his explanation of part 2 of his amendment.

Mr. McDONALD. Mr. Chairman, if the gentleman will yield, a homosexual who wants help on a traffic ticket can now be discriminated against. This sounds terrible, but a crucial question must be asked. Who was responsible for bringing into issue the man's homosexuality?

If the individual seeking help has done so, the discrimination is consistent with our end.

Mr. WEISS. Is that part 1?

Mr. McDONALD. This covers part 1 and part 2.

If the attorney injects the issue based upon mere suspicion and the person is discriminated against, his position is no worse than one which any of us might find ourselves in simply because another individual does not like the way we look.

The long and the short of the matter is that those who openly profess and promote homosexual conduct do not deserve protection under this amendment. This is my intention. If they want to keep their conduct in their private lives and not bring it into the courts, then they have the same rights as any other individual for protection under the law whether it be help on a traffic ticket, a case of assault, robbery, or whatever.

My amendment stops any public promotion of homosexual conduct. Defeating the promulgation of the regulations has the same effect. Any individual who brings into issue his homosexual conduct cannot receive protection under the law. If they keep their conduct to themselves, they obviously have the same rights as any other individual in society.

Mr. WEISS. Mr. Chairman, if I may respond further to the gentleman's explanation, as I read the regulation which the gentleman's amendment would prohibit from being funded or enforced, provides that no person "subjected * * * to discrimination in the provision of services or employ-

ment practices. * * * It is "discrimination" that those regulations attempt to prohibit.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I am pleased to yield to my distinguished friend, the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, in listening to the statement and the reiteration of the statement by the gentleman from Georgia (Mr. McDONALD), what I am afraid has happened is that he has completely undone the value benefiting from the conversation he had with the gentleman from Illinois (Mr. HYDE), because he is now contradicting exactly what his answer was in response to the colloquy he had with the gentleman from Illinois. That is what, unfortunately, has happened.

That is what makes it important that we defeat this amendment.

Mr. WEISS. Mr. Chairman, I appreciate the gentleman's comments.

It should be obvious, Mr. Chairman, to all of us who consider ourselves to be rational, deliberative Members of this body that, on the basis of the explanations which have been offered and the contradictions in those explanations, we would violate our commitment to rational debate and action if we were to adopt this amendment. No one can tell with any certainty what the amendment means or intends. This amendment could prohibit the Corporation from providing legal representation in any case involving the rights of homosexuals and possibly any case involving a person of that sexual orientation or preference.

This is not the first time I have had to voice my strong objection to such discriminatory action in connection with the Legal Services Corporation (LSC). We have covered this ground before. However, this year, after extensive committee hearings, the Subcommittee on Courts, Civil Liberties, and the Administration of Justice has reported a bill which addresses many of the concerns expressed by Members about the appropriate role of LSC attorneys. Specific language is included in the bill before us which would prohibit "legal assistance for any litigation which seeks to adjudicate homosexuality." While I maintain my opposition to restrictions of this kind, it is clear that the bill already adequately reflects the sentiment held by many of my colleagues on this sensitive issue.

Yet the amendment offered by Mr. McDONALD goes well beyond the issue of whether or not to legalize homosexuality to an outright denial of legal assistance to a single group of potential LSC clients. By so doing, it violates both statutory requirements that govern the LSC's operation and constitutional guarantees to due process and equal justice under the law. In addition, the language of Mr. McDONALD's proposal is so imprecise that it would be difficult to define just what is covered by the amendment. Would it prohibit litigation on employment dis-

crimination? Even in those jurisdictions which have enacted nondiscrimination ordinances? Would this not have the effect of the Federal Government enforcing its standards over those of the States and municipalities?

What about landlord-tenant cases? Could a landlord raise the tenants homosexuality or alleged homosexuality, even if it was irrelevant to the case, thereby preventing a Legal Services attorney from handling the case?

How would the LSC be expected to learn whether a person is a homosexual? Indeed, those who did reveal their preference might be discriminated against while those who kept silent received legal services. Will police power someday be needed to enforce the McDONALD amendment?

At best, the language of the amendment is ambiguous. At worst, it is a direct assault upon the constitutional right to due process for one group of taxpaying citizens. It seems to me that this House has already placed more than enough restrictions on what was intended to be an independent vehicle for delivering legal assistance to the poor. Let us not destroy this vital link in our civil justice system with unworkable and discriminatory prohibitions. I urge my colleagues to oppose this dangerous amendment and to let the excellent and much needed work of the Legal Services Corporation continue without further impediments.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Georgia (Mr. McDONALD).

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 281, yeas 124, not voting 26, as follows:

[Roll No. 85]

AYES—281

Akaka	Brown (OH)	DeNardis
Albosta	Broyhill	Derrick
Alexander	Burgener	Derwinski
Andrews	Butler	Dickinson
Annunzio	Byron	Dicks
Anthony	Campbell	Dingell
Applegate	Carman	Donnelly
Archer	Carney	Dorgan
Ashbrook	Chappell	Dornan
Atkinson	Cheney	Dougherty
Bafalis	Clausen	Dreier
Bailey (MO)	Clinger	Duncan
Bailey (PA)	Coats	Dyson
Barnard	Coleman	Early
Beard	Collins (TX)	Edwards (OK)
Benedict	Corcoran	Emerson
Benjamin	Coughlin	Emery
Bennett	Courter	English
Bereuter	Coyne, James	Erdahl
Bethune	Craig	Ertel
Bevill	Crane, Daniel	Evans (DE)
Blanchard	Crane, Philip	Evans (GA)
Bliley	D'Amours	Evans (IA)
Bonker	Daniel, Dan	Evans (IN)
Bouquard	Daniel, R. W.	Fary
Bowen	Dannemeyer	Fields
Brinkley	Daschle	Fithian
Brooks	Daub	Flippo
Broomfield	Davis	Florio
Brown (CO)	de la Garza	Foley

Fountain	Lott	Rousselot
Frost	Lowry	Rudd
Fuqua	Lujan	Russo
Gaydos	Lundine	Santini
Gephardt	Lungren	Sawyer
Gibbons	Madigan	Schulze
Gingrich	Marks	Sensenbrenner
Ginn	Marlenee	Shamansky
Glickman	Marriott	Sharp
Goodling	Martin (NC)	Shaw
Gore	Mazzoli	Shelby
Gradison	McClory	Shumway
Gramm	McColum	Shuster
Gregg	McCurdy	Siljander
Grisham	McDonald	Simon
Gunderson	McEwen	Skeen
Hagedorn	McGrath	Skelton
Hall, Ralph	McHugh	Smith (AL)
Hall, Sam	Mica	Smith (NE)
Hamilton	Michel	Smith (NJ)
Hammerschmidt	Miller (OH)	Smith (OR)
Hance	Minish	Snowe
Hansen (ID)	Mitchell (NY)	Snyder
Hansen (UT)	Moakley	Solomon
Hartnett	Molinari	Spence
Hatcher	Mollohan	St Germain
Heckler	Montgomery	Stangeland
Hefner	Moore	Stanton
Heftel	Moorhead	Staton
Hendon	Morrison	Stenholm
Hertel	Mottl	Stratton
Hightower	Murphy	Stump
Hiler	Murtha	Synar
Hillis	Myers	Tauke
Holland	Napier	Tauzin
Holt	Natcher	Taylor
Hopkins	Neal	Traxler
Hubbard	Nelligan	Trible
Huckaby	Nelson	Vander Jagt
Hunter	Nichols	Volkmer
Hutto	Nowak	Walgren
Hyde	O'Brien	Walker
Ireland	Parris	Wampler
Jacobs	Patman	Watkins
Jeffries	Paul	Weber (MN)
Jenkins	Pease	Weber (OH)
Johnston	Perkins	White
Jones (NC)	Petri	Whitehurst
Jones (OK)	Pickle	Whitley
Jones (TN)	Price	Whittaker
Kazen	Pursell	Whitten
Kemp	Quillen	Williams (OH)
Kindness	Rahall	Wilson
Kramer	Regula	Wolf
LaFalce	Rhodes	Wortley
Lagomarsino	Rinaldo	Wright
Latta	Ritter	Wylie
Leath	Roberts (KS)	Yatron
LeBoutillier	Roberts (SD)	Young (AK)
Lee	Robinson	Young (FL)
Lent	Roe	Young (MO)
Levitas	Rose	Zablocki
Loeffler	Rostenkowski	Zerferetti
Long (LA)	Roth	

NOES—124

Addabbo	Edgar	Kogovsek
Anderson	Edwards (AL)	Leach
Aspin	Edwards (CA)	Leland
AuCoin	Erlenborn	Lewis
Barnes	Fascell	Lowery
Bedell	Fazio	Markey
Bellenson	Fenwick	Martin (IL)
Biaggi	Ferraro	Martin (NY)
Bingham	Fiedler	Mattox
Boggs	Findley	Mavroules
Boland	Fish	McCloskey
Bolling	Foglietta	McKinney
Bonior	Ford (MI)	Mikulski
Brodhead	Ford (TN)	Miller (CA)
Brown (CA)	Forsythe	Mineta
Burton, John	Fowler	Mitchell (MD)
Burton, Phillip	Frank	Moffett
Chisholm	Gejdenson	Oakar
Clay	Gilman	Oberstar
Coelho	Goldwater	Ottinger
Collins (IL)	Gonzalez	Panetta
Conable	Green	Patterson
Conte	Guarini	Pepper
Coyne, William	Hall (OH)	Peyser
Crockett	Harkin	Porter
Danielson	Hollenbeck	Pritchard
Deckard	Horton	Ralisback
Dellums	Howard	Rangel
Dixon	Hoyer	Ratchford
Downey	Hughes	Reuss
Dunn	Jeffords	Richmond
Dwyer	Kastenmeier	Rodino
Dymally	Kildee	Roemer

Rosenthal	Smith (IA)	Weaver
Roybal	Stark	Weiss
Sabo	Stokes	Williams (MT)
Scheuer	Studds	Wirth
Schneider	Swift	Wolpe
Schroeder	Udall	Wyden
Seiberling	Vento	Yates
Shannon	Washington	
	Waxman	

NOT VOTING—26

Badham	Gray	Obey
Boner	Hawkins	Pashayan
Breaux	Lantos	Rogers
Chapple	Lehman	Savage
Conyers	Livingston	Schumer
Cotter	Long (MD)	Solarz
Eckart	Luken	Thomas
Frenzel	Matsui	Winn
Garcia	McDade	

□ 1215

The Clerk announced the following pairs:

On this vote:

Mr. Rogers for, with Mr. Lehman against.
Mr. Livingston for, with Mr. Lantos against.

Mr. McDade for, with Mr. Gray against.
Mr. Frenzel for, with Mr. Garcia against.
Mr. Winn for, with Mr. Matsui against.

Mr. Badham for, with Mr. Solarz against.

Mr. HORTON changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

ADDITIONAL RESTRICTIONS ON USE OF FUNDS

SEC. 11. Section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)) is amended—

(1) by amending paragraph (6) to read as follows:

"(6) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this paragraph shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;"

(2) by amending paragraph (8) to read as follows:

"(8)(A) to provide legal assistance with respect to any proceeding or litigation relating to abortion unless such abortion is necessary to save the life of the mother, or (B) to support in whole or in part any legal assistance activity of any attorney in connection with any proceeding or litigation relating to abortion unless such abortion is necessary to save the life of the mother, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities;"

(3) in paragraph (9) by striking out "or" after the semicolon;

(4) in paragraph (10) by striking out the period and inserting in lieu thereof a semicolon; and

(5) by adding at the end thereof the following new paragraphs:

"(11) to provide legal assistance for or on behalf of any individual who is known to be an alien in the United States in violation of the Immigration and Nationality Act or any other law of the United States, or convention or treaty to which the United States is a party, relating to the immigration, exclusion, deportation, or expulsion of aliens; or

"(12) to provide legal assistance for any litigation which seeks to adjudicate the legalization of homosexuality."

Mr. KASTENMEIER (during the reading). Mr. Chairman, I ask unanimous consent that section 11 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

Mr. KASTENMEIER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time so that we may discuss a limitation of debate. I am sure it is the desire of this body that we conclude action on this today. We do not, I am informed, that we will not proceed on tomorrow to dispose of any untreated amendments. In light of the fact that the Committee of the Whole took nearly 2 hours on the last amendment, it is clear, I think, that some sort of orderliness in terms of the amount of time allocated to debate on amendments be reached.

With that in mind, and having consulted with Members of the minority and Members on my side, I would make the following unanimous-consent request. At this point I make no motion. This pertains only to section 11.

I ask unanimous consent all debate on amendments to section 11 do not exceed more than 20 minutes, one-half to be controlled by the proponents of the amendment and one-half by the opponents of the amendment, excepting in the case of the so-called alien amendments to be offered by the gentleman from Texas (Mr. KAZEN) and the gentleman from Florida (Mr. McCOLLUM), in which case the debate on the those amendments do not exceed 40 minutes, those amendments and all amendments thereto on the question of aliens.

The CHAIRMAN pro tempore. A point of clarification from the standpoint of the Chair. Is the gentleman suggesting to limit debate on each amendment to section 11 and on any amendment thereto to 20 minutes, the time to be divided equally between the proponents and the opponents, and 40 minutes on the amendments being offered by the gentleman from Texas (Mr. KAZEN) and the possible substitute thereof of the gentleman from Florida (Mr. McCOLLUM) and all amendments thereto?

Mr. KASTENMEIER. Yes. The request of 40 minutes pertains to both amendments, that is to say that they may be offered in tandem, but that the total amount of time allocated to the subject represented by those two amendments not exceed 40 minutes.

The CHAIRMAN pro tempore. And all amendments thereto.

Mr. KASTENMEIER. Yes.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. May I yield first to the gentleman from Texas?

Mr. KAZEN. For a point of clarification, in my instance with one of those amendments that the gentleman has said we could have 40 minutes on, what does that allow me as a proponent of one of the amendments?

Mr. KASTENMEIER. That would allow the gentleman or those speaking in the gentleman's behalf 10 minutes. That would allow the gentleman from Florida (Mr. McCOLLUM) or those speaking in behalf of his substitute, if offered, 10 minutes and that would allow any opposition to either of those two amendments a total of 20 minutes, 10 minutes each. That would be the same as any other amendment.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. Yes; I yield to the gentleman from Illinois.

Mr. McCLORY. Is it my understanding that the 20-minute time limitation applies to each amendment; each amendment would be subject to being debated for 20 minutes, with 10 minutes on each side.

Mr. KASTENMEIER. Exactly.

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

Mr. ROUSSELOT. Mr. Chairman, I reserve the right to object.

The CHAIRMAN pro tempore. The Chair would point out to the Members that are discussing this, that the request addresses itself to each amendment and any amendment thereto, inclusive.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, could we have an idea how many amendments there are at the desk?

The CHAIRMAN pro tempore. The Clerk informs the Chair that there are four amendments to section 11, for the information of the gentleman from California.

Mr. ROUSSELOT. But this applies to the whole bill, how many total amendments.

Mr. KASTENMEIER. No, no, only to this section.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, why has the gentleman decided on 20 minutes? What is wrong with 30 minutes on each side?

Mr. KASTENMEIER. Well, if the gentleman will yield, that has been the suggestion. There are, I think, five amendments in total that are qualified, two by the gentleman from Ohio (Mr. ASHBROOK), one by the gentleman from Texas (Mr. KAZEN), one by the gentleman from Florida (Mr. McCOLLUM) and one by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The CHAIRMAN pro tempore. The gentleman is correct. There are five amendments at the desk to section 11.

Mr. KASTENMEIER. I think in the case of a couple of those amendments, there will not be a great deal of controversy.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object,

does the gentleman himself resist the idea of 30 minutes for each side?

Mr. KASTENMEIER. In order that we can conclude today, I would hope that, I would prefer the 20 minutes per amendment, so that we could move on from this section, after having spent 2 hours on just one amendment.

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

Mr. ROUSSELOT. Reserving the right to object, Mr. Chairman, there are several people that have waited quite a while. As a matter of fact, I have not really participated much in this debate. We all have shown the same patience as the Chairman, but some of these others, such as the Alien amendment, really, some of us consider to be rather crucial.

I wonder if the gentleman would object to the idea of 30 minutes for each side?

□ 1230

Mr. KASTENMEIER. May I inquire of the gentleman from California (Mr. ROUSSELOT) would he be agreeable to 1 hour devoted to the two amendments affecting aliens?

Mr. ROUSSELOT. I would tell the gentleman I would. Will the gentleman amend his unanimous-consent request in that way?

Mr. KASTENMEIER. I would. I would be agreeable to do that.

The CHAIRMAN pro tempore. The unanimous-consent request has been modified to 1 hour of debate on the amendment offered by the gentleman from Texas (Mr. KAZEN) and the amendment offered by the gentleman from Florida (Mr. McCOLLUM) and all amendments thereto, 1 hour.

Is there objection to the unanimous-consent request of the gentleman from Wisconsin (Mr. KASTENMEIER)?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I reserve the right to object not to object. In past Congresses I have pointed out many times this practice and how it has worked. As a matter of fact, many times in the early part of the debate when Members have asked for an additional 5 minutes, an additional 5 minutes, an additional 3 minutes, an additional 3 minutes, I have taken the floor had said what is going to happen when a few of us later on want to be recognized. The same thing happens. We get 1 minute, 2 minutes, 3 minutes.

I am not going to object, but I think as Members we ought to self-discipline ourselves to make sure these situations do not happen. I do not blame my colleague. I fully support what he is trying to do. I merely take this time to point out so many times in early debate we take 20 minutes when we could have used 5, and then we limit time later on. I agree with the gentleman.

Mr. Chairman, I withdraw my reservation of objection.

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

Mr. FISH. Mr. Chairman, reserving the right to object, I would sincerely hope that I do not have to object. The chairman of the subcommittee has pointed out there are two amendments dealing with alien recipients of legal aid. The gentleman is also aware that I have a perfecting amendment to the two amendments. I think inasmuch as we have spent 2 days sharply circumscribing the activities of attorneys, and we are presently facing a series of amendments that are aimed at limiting the eligible clients by up to 10 million, I would like to have my perfecting amendment be considered as one of the three in that hour so that I am guaranteed at least 20 minutes of that time.

Mr. KASTENMEIER. Will the gentleman from New York yield?

Mr. FISH. I yield to the gentleman. I am happy to yield.

Mr. KASTENMEIER. Of course I am aware of the gentleman from New York's amendment. I personally plan to support it. My expectation was that that amendment would be offered in the context of the 1 hour general debate, debate to the two other amendments, and that the gentleman would have time either as an opponent of the amendment, on one of the two amendments in their present form, and the gentleman's amendment is perfectly in order. I cannot imagine the gentleman would not have adequate time both to present his amendment and to debate it.

Mr. FISH. I know there are other people that wish to speak on my amendment. If it is not considered in the same stature as the two the chairman mentioned, I just fear I may not get the one-third of the hour that is to be allocated to this subject matter.

Mr. KASTENMEIER. Of course, in the way of debate, if the gentleman would yield further on his reservation, it is difficult to determine the debate itself. The 1 hour may be used by those who have access to the time in various ways. But I would sincerely believe that the gentleman will have adequate time not only to early offer his amendment, to speak to it and have others speak to it in the context of the other two amendments.

Mr. FISH. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the unanimous-consent request of the gentleman from Wisconsin (Mr. KASTENMEIER)?

Mr. WALKER. Mr. Chairman, reserving the right to object, I have a couple of questions.

Under the proposal would we be prevented from offering motions to strike the requisite number of words in order to engage in debate that might not be directly related to the amendment?

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman.

Mr. KASTENMEIER. I would have to ask the Chairman if that would entitle the speaker to time other than that allocated under this request.

The CHAIRMAN pro tempore. If an amendment to section 11 were pending, under this request, a motion to strike the last word would not be in order, since time would be allocated.

Mr. WALKER. Further reserving the right to object, let me also ask the gentleman would there be anything wrong with the procedure of doing this on individual amendments?

The gentleman has made the point that a couple of the amendments seemed less controversial than others. Why not do it on each individual amendment as it comes up rather than en bloc, which would reserve more time for some of us?

We have a couple of things we may want to discuss that are not directly related to an amendment, and I would not want to do that and infringe on someone's amendment time under the gentleman's kind of procedure.

The CHAIRMAN. The unanimous-consent request does not go to the section itself, but only goes to substantive amendments if offered; so it would be possible, if there are no other amendments pending, at the right time, to be recognized as the Chair has permitted to strike the requisite number of words.

Mr. KINDNESS. Will the gentleman yield under his reservation?

Mr. WALKER. I am glad to yield to the gentleman.

Mr. KINDNESS. In order to clarify a point, the time limitation sought at present relates to only section 11 of the bill, amendments thereto, and all amendments to those amendments which would, I believe, leave the opportunity for one of the things the gentleman was seeking to cover under section 12 or 13.

Mr. WALKER. I thank the gentleman for his contribution.

It is my understanding from the Chair, further reserving the right to object, that it does not cover the section but, rather, only the amendment to the section and we would still under the section have the ability, if an amendment was not pending, to strike the requisite number of words.

Mr. KINDNESS. I thank the chairman.

Mr. WALKER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the unanimous-consent request of the gentleman from Wisconsin?

There was no objection.

AMENDMENT OFFERED BY MR. SENSENBRENNER
Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SENSENBRENNER: Page 11, line 25, strike out "except that" and all that follows through "responsibilities" on page 12, line 3.

The CHAIRMAN. The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 10 minutes under the unanimous consent request approved.

Mr. CHENEY. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Wyoming.

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

Mr. CHENEY. Mr. Chairman, one of the cornerstones of the foundation of our Nation is the concept of equal justice for all. It is an idea that our Founding Fathers fought for, an idea that many of our Founding Fathers died for.

And it is a dream we have come very close to realizing in the United States of America.

It is a goal that the Republican Party has a long and proud history of fighting for, from the very first days of our party's history. We firmly believe that no one in American society should be denied adequate legal representation in court actions due to a lack of financial resources.

President Reagan recognized this when he proposed that the Legal Services Corporation be allowed to expire September 30, 1981, and replaced with State and local programs in fiscal 1982 and fiscal 1983 at a \$260 million annual level.

Such a step would break the budget ceilings set just last month in the Latta-Gramm resolution.

Such a move would also be a step backward, a failure to accept the painfully ample evidence that the Legal Services Corporation just has not worked. President Reagan wants to send the authority for and control of such legal assistance programs back to the local level, where local people understand their own problems best.

Mr. Chairman, The House Republican policy committee, of which I am chairman, supports President Reagan's move. We believe that there is a strong need for legal assistance for the poor, and we strongly support such a program.

Those services, however, can best be provided through programs such as social service block grants for State, regional, and local units of government, and tax incentives for private attorneys who represent the poor without pay.

The House Republican policy committee has adopted an official policy statement on this issue, which follows:

STATEMENT NO. 4—JUNE 11, 1981

Republicans have long supported legal assistance for the poor. No one in American society should be denied adequate legal representation in civil actions due to a lack of financial resources.

That was the aid envisioned seven years ago when the federal Legal Services Corporation was created. However, as it now exists, the Corporation is a severe distortion of the social service agency it was created to be.

Recognizing this, the Reagan administration has called for decentralization of the

authority of the Legal Services Corporation and its transfer to state, regional and local units of government and local legal organizations, supported in large part through social service block grants to the states.

The House Republican Policy Committee supports such a move.

The existing Legal Services Corporation provides no assistance which cannot be supplied more efficiently and more directly by these local sources. The Corporation should be allowed to go out of existence when its current funding expires September 30.

While it was planned to provide needed legal services to the poor, the Corporation instead has incurred a great deal of criticism by becoming a center for social activists.

In fact, when questions were raised this year about the activities of the Corporation and prospects for terminating it completely, Legal Services Corporation staff members embarked on planning a massive lobbying campaign to save their jobs. Such lobbying with public funds is specifically prohibited by federal regulations.

The House Judiciary Committee, however, has reported favorably H.R. 3480, which would reauthorize the Corporation at an annual level of \$260 million for fiscal 1982 and fiscal 1983. Such an action would violate the spending ceilings already adopted by the Congress in the Latta-Gramm bill.

Supporters of continuation of the Legal Services Corporation now contend that the past errors of the agency can be corrected through the adoption of a series of amendments accepted by the Judiciary Committee. The history of the Corporation over the past seven years, however, gives ample evidence that the Legal Services Corporation and its staff move tenaciously to do exactly what they want to do, not what the agency was created to do.

Significantly, in reporting the bill favorably, a majority of a divided House Judiciary Committee rejected an amendment placing an outright ban on most class action suits brought by the Corporation.

The states, regional and local units of government and individual law firms are fully capable of filling these needs in the field of civil law through tools such as legal aid programs and tax incentives for private attorneys who represent the poor without pay.

The House Republican Policy Committee opposes H.R. 3480 and urges all Republicans to vote against the bill.

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

I will be brief. This amendment seeks to get the Legal Services Corporation out of the business of giving legal advice on abortions completely. The bill as reported from committee attempts to restrict the Legal Services Corporation from getting involved in abortion litigation.

However, an exception is included that nothing in that restriction shall prohibit the provision of legal advice to an eligible client with respect to such client's rights and responsibilities. That is a crevice which will be widened into a chasm by any ingenious Legal Service Corporation attorney.

For example, the provision does not preclude the Legal Services Corporation from taking an abortion rights case under the guise of giving legal counsel on a client's rights and responsibilities. Under the exception, legal

counsel could be given to minor children seeking abortions without prior parental notification or consent.

This amendment will close this loophole completely, it will get the Legal Services Corporation completely out of the business of giving counsel on abortion no matter how it is stated. I would urge the amendment be adopted.

I reserve the balance of my time.

The CHAIRMAN. The gentleman has consumed 2 minutes.

The gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 10 minutes.

Mr. KASTENMEIER. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Ms. FERRARO).

Ms. FERRARO. Mr. Chairman, I rise in strong opposition to this amendment. I cannot believe what we are about to do is take away and actually flagrantly violate the purposes of the Legal Services Corporation.

The Corporation was established specifically to provide poor people with adequate legal representation and advice. What the gentleman is saying—and this should go, not to whether my colleagues support a woman's right to have an abortion or do not support it—abortion is legal in this country, the U.S. Supreme Court has ruled that it is legal, what the gentleman in effect is saying, is that a poor woman who is pregnant, who goes to Legal Services to find out whether or not she can, A, have an abortion and, B, whether or not she can have it done at Government expense, will be turned away and be told to seek responses to her inquiry elsewhere.

That to me seems a violent, aberration of what the purposes of this act are. It is also an extremely discriminatory action against poor women when that same type of advise is available to every other woman in this country.

I urge this body to please vote against this amendment as being a violation of a poor woman's legal rights, and discrimination against her simply because she is poor.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Ms. FERRARO. I yield to the gentleman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank my colleague for yielding. I would like to endorse the sentiments that have just been expressed and most urgently hope that this amendment will be defeated.

I cannot believe that in one area after another pitiful, helpless people, without money, may be denied legal aid. What is the point of the whole exercise if there is no legal adviser to tell a woman what rights she is entitled to under the law.

There are laws in this Nation and everyone should be able to get advice as to how those laws affect them, no matter what laws we are talking

about. If it is a legal question, people have a right to advice and counsel.

I cannot believe that we are hearing such proposals in Congress.

I thank my colleague for yielding.

Ms. FERRARO. I thank the gentleman for her remarks and yield back the balance of my time.

Mr. KASTENMEIER. Mr. Chairman, I yield so much time as he may consume to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. I appreciate the gentleman yielding. I rise in opposition to this amendment because I do not think it has a thing to do with abortion.

What it does have to do with, if we have a Legal Services Corporation, is whether one can get legal advice or not. We have now gone as far as we can and in this amendment to the bill before us we have gone a great deal further than we did last year in accommodating those people who are opposed to abortion. So there is no question about that aspect of it.

It was at the insistence of the gentleman from Kentucky that this was inserted in the bill. I have accommodated in my own view and urged support of substantially all of the amendments that have come along which I felt were designed to meet objections to this bill. But this is the time I feel like we must draw the line because we have gone too far.

What this does, in effect—it does not do it in effect, it does it in fact—it says that legal advice to an eligible client cannot be given with respect to such client's legal rights. That is going just too far.

If we are going to create a Legal Services Corporation to provide legal advice for the poor, then they ought to be able to come in and say to their lawyer, "What are my rights, what are my rights in regard to abortion."

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. I think my colleague makes an excellent statement. Let us say a pregnant woman who is seriously ill, wants to get some legal advice as to what the law provides on abortion. The Legal Services lawyer could not even render that kind of advice, that no, you cannot get an abortion. He could not even talk to her about any issue related thereto, which is a clear deprivation of that woman's rights.

So I agree with the points made by the gentleman. I urge the rejection of the amendment.

Mr. BUTLER. I thank the gentleman for his contribution.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I am happy to yield to the gentleman from Illinois.

Mr. RAILSBACK. What my colleagues ought to know is once again we did tighten up the law relating to providing legal assistance for abor-

tions. Some of us did not want to do that, but we did it because we are very much aware of the very stark political facts of life about trying to save the Legal Services, which many of us believe very strongly in.

I think the gentleman from Virginia (Mr. BUTLER) has hit the nail right on the head. This is going too far. We would completely prohibit Legal Services from offering legal advice, and what in the world is the matter with telling someone about what their legal rights are?

Mr. BUTLER. I thank the gentleman for his comments.

□ 1245

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I will be happy to yield to the gentleman from Michigan.

Mr. SAWYER. I thank the gentleman for yielding. I may say that I have consistently voted against the use of medicaid funds for optional abortions. But take a scenario: a woman comes into Legal Aid. She says her doctor has advised here that she is likely to die if she carries the pregnancy out to term. Does she have any right to get any public assistance? He would be here prohibited from telling her, sure, she would because her life is in danger. She may have no way to know that. Maybe the clerk handling the medicaid then does not know that either.

It just seems to me to stop people from knowing what the law is as we have cast it, rightly or wrongly, is going a step far beyond the question of abortion, or really any other issue.

Mr. BUTLER. I thank the gentleman.

Mr. AUCCOIN. Mr. Chairman, I rise in opposition to Mr. SENSENBRENNER's amendment which would prohibit Legal Services attorneys from providing advice relating to abortion to clients. This amendment is a cruel measure serving no purpose since H.R. 3480 already bans Legal Services programs from becoming involved in any proceedings or litigation relating to abortion unless the life of the mother is at stake.

The U.S. Supreme Court has held that abortion is legal. What possible rationale can be advanced for prohibiting a Legal Services attorney from informing an interested client as to the current state of the law? At best, the adoption of this amendment will cause low-income people to be shunted from agency to agency in their search for information and a solution to their problems. It would require that lawyers send clients who raise the issue of abortion to another agency without even answering their questions or explaining their legal rights. At worst, this amendment would totally prevent low-income people from learning the current status of the law as it relates to abortion. In many areas of our country, particularly in rural areas,

there are no other agencies which could provide the information and advice that clients may seek. This amendment would prohibit a Legal Services attorney from answering a mothers or father's question about whether a daughter could legally obtain an abortion or whether or not that daughter could seek and obtain an abortion without the parents' consent.

As well as seriously interfering with the rights of low-income clients to receive information, it would interfere with the Legal Services professional and ethical responsibilities. In the course of representing a client on another issue, questions about the law and that client's legal rights and responsibilities concerning abortion may arise; to prohibit an attorney from answering a client's questions and providing advice is an unwarranted interference with the attorney-client relationship. Further, in many areas of our country, such a prohibition would have the effect of insuring that the clients never get the information and advice sought and never get to any other source of such information. In many neighborhoods, clients will turn only to Legal Services as their legal resource and if that program cannot even refer them to another lawyer, they will have no way to find that lawyer.

Mr. KASTENMEIER. Mr. Chairman, I yield myself so much time as I may consume.

Very briefly, Mr. Chairman, the committee did take a significant step in curtailing the availability of legal services in terms of abortion. It did so in attempting to replicate what we thought to be the House position. In the past, other than for a therapeutic abortion, Legal Services was forbidden to render legal assistance. However, we have now changed it so that such legal assistance may only be given with respect to representation in a proceeding or litigation to save the life of the mother. That has gone pretty far. That is in the bill itself.

What the gentleman from Wisconsin (Mr. SENSENBRENNER) now seeks to do, much further than that, is to forbid the Legal Services programs or their attorneys to merely tell a person what his or her rights may be, knowing he cannot be involved in any proceeding or litigation in these matters.

As the gentleman from Virginia (Mr. BUTLER) has said, that is going too far. I hope the House rejects this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. I thank my colleague for yielding.

Mr. Chairman, I have listened to the debate. The thing that strikes me, I will say to my friend, is that you have given the precise argument that was given in a losing case decided by the Supreme Court. You are saying precisely what Judge Dooley said in New

York. It is my recollection the Supreme Court said that this body, the Congress, has a near absolute right to determine how taxpayers' money shall be spent. You are confusing a right that you say these people have who want to get an abortion with the Congress, right to dispense and proscribe, however it sees fit within the realm of the Constitution and the limits of the Constitution, taxpayers' money. That is precisely what we are talking about here.

This body has a right. Do not let anybody tell you we do not have this basic right to determine what purposes taxpayers' funds shall be used. This body has a right to say taxpayers' money shall not be spent in the precise way that my colleague from Wisconsin (Mr. SENSENBRENNER) would limit.

I well recall when this bill first came up. There are very difficult areas. As my friend, the gentleman from Virginia, Mr. Poff, who was one of our outstanding legislators, indicated at the time, any time you have an agency that has a judicial thrust with a legislative base—in other words, the legislature enacts a law and a group comes from that law which has a judicial function—obviously, there are difficulties, but again returns to where this agency gets its rights, where they get their money, where they get their being. They get it from the statutes that we pass, from the laws that we pass, from the taxpayers' moneys that we dispense. The Supreme Court is different, of course. It does not get its authority from us or by statute. It rights and responsibilities flow from the organic document which establishes alike this body—the Constitution.

So do not confuse rights of women who come in and want advice with the right that this body has to dispense or to not dispense taxpayers' money for the purposes we see fit.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Colorado.

Mrs. SCHROEDER. I thank the gentleman for yielding.

I think one of the things that the gentleman is missing, though, is that women are also taxpayers, and they pay equal taxes they are entitled to equal protection as citizens. I think when you look at the Pledge of Allegiance and everything else, we are talking about equal justice for all. If a pregnant woman's life is in danger and she seeks advice on her constitutional rights, I find it incredible you would deny her that advice. Since women pay equal taxes, women should be entitled to equal justice.

Mr. ASHBROOK. The obvious answer to that is the taxpayers sent all of us here. When the taxpayers send enough here who think the law should be your way, we will write it that way. If those whom the taxpayers sent here pass a law, it is the law of

the land. It has happened about 98 percent of the time in my 20 years here with bills I do not like, for burdens I do not want, for mistakes I think have been made. I have voted as the taxpayer wanted, and I have not stood up and said my rights have been taken away. I have followed the law just as those individuals my friend is talking about must follow the law if we here today mandate it in the SENSENBRENNER amendment and it becomes enacted.

The Constitution gives this body the right to dispense taxpayers' money, even in 98 percent of the cases I do not agree with.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield for one question?

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

Mr. McCLOSKEY. I think the gentleman for yielding. The problem with this amendment is it provides you cannot even give advice on legal responsibilities. Suppose you have an abortionist come in who is indigent, putting his way through Stanford doing illegal abortions—like someone I know once did back in the late 1940's—you cannot even advise him of his responsibility not to do illegal abortions; am I not correct?

Mr. ASHBROOK. If that is what this body passes and it is constitutionally correct, that is the way it will be.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, there is opinion that the language that is contained in the bill before the committee provides a substantially bigger loophole in the provision of abortion legal advice than the present law does. Section 1007(b)(8) of the present Legal Services Corporation Act prohibits funds available to the Corporation to be used to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution.

H.R. 3480, section 11(8)(A), provides the exception which I described earlier in the debate on this amendment.

When this entire issue was debated in the Committee on the Judiciary, I asked the gentleman from Kentucky (Mr. MAZZOLI) whose opposition to legalized abortion is very well known in this body, whether the restriction contained in H.R. 3480 would prevent the Legal Services Corporation from engaging in abortion litigation. The gentleman from Kentucky (Mr. MAZZOLI) replied that it probably did not. That is substantially less restrictive than the present law which I just quoted. That is why this amendment is before the committee today, to take the exception out and hopefully to get the

Legal Services Corporation out of the business of giving abortion advice through whatever device that they may decide is proper.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 160, noes 242, not voting 29, as follows:

[Roll No. 86]

AYES—160

Albosta	Hertel	Quillen
Applegate	Hightower	Regula
Archer	Hiler	Rinaldo
Ashbrook	Hillis	Ritter
Atkinson	Holt	Roberts (KS)
Ba Falls	Hopkins	Roberts (SD)
Bailey (MO)	Hunter	Robinson
Barnard	Hyde	Rogers
Benedict	Ireland	Rousselot
Bereuter	Jeffries	Rudd
Bliley	Johnston	Santini
Boggs	Kildee	Schulze
Bouquard	Kramer	Sensenbrenner
Brinkley	Lagomarsino	Shelby
Byron	Leath	Shumway
Campbell	LeBoutillier	Shuster
Carman	Lee	Siljander
Carney	Lent	Skeen
Clausen	Loeffler	Skelton
Coats	Long (LA)	Smith (AL)
Collins (TX)	Lowery	Smith (NE)
Corcoran	Lujan	Smith (NJ)
Courter	Lungren	Smith (OR)
Craig	Madigan	Snyder
Crane, Daniel	Markey	Solomon
Crane, Phillip	Marriott	Spence
Daniel, Dan	Martin (NY)	St Germain
Daniel, R. W.	Mavroules	Stangeland
Dannemeyer	McClory	Stanton
Daub	McDade	Staton
Davis	McDonald	Stump
Deckard	McEwen	Tauke
Donnelly	McGrath	Tauzin
Dornan	Miller (OH)	Taylor
Dougherty	Mitchell (NY)	Traxler
Dreier	Moakley	Trible
Dyson	Mollinari	Vander Jagt
Edwards (OK)	Moore	Volkmer
Emerson	Moorhead	Walker
Emery	Mottl	Wampler
Evans (GA)	Murphy	Weber (MN)
Evans (IA)	Myers	Weber (OH)
Fields	Napier	Whitehurst
Gibbons	Natcher	Whitten
Goldwater	Nelligan	Winn
Goodling	O'Brien	Wolf
Gregg	Oakar	Wortley
Grisham	Oberstar	Yatron
Hagedorn	Parris	Young (AK)
Hansen (ID)	Pashayan	Young (FL)
Hansen (UT)	Patman	Zablocki
Hartnett	Paul	Zerferetti
Heckler	Perkins	
Hendon	Petri	

NOES—242

Addabbo	Bethune	Burton, John
Akaka	Bevill	Burton, Phillip
Alexander	Biaggi	Butler
Anderson	Bingham	Chappell
Andrews	Blanchard	Cheney
Anunzio	Boland	Chisholm
Anthony	Bolling	Clay
Aspin	Bonior	Clinger
AuCoin	Bonker	Coelho
Bailey (PA)	Bowen	Coleman
Barnes	Brodhead	Collins (IL)
Beard	Brooks	Conable
Bedell	Brown (CA)	Conte
Bellenson	Brown (CO)	Coughlin
Benjamin	Broyhill	Coyne, James
Bennett	Burgener	Coyne, William

Crockett	Hall, Sam	Pease
D'Amours	Hamilton	Pepper
Danielson	Hammerschmidt	Peysner
de la Garza	Harkin	Pickle
Dellums	Hatcher	Price
DeNardis	Hawkins	Pritchard
Derrick	Hefner	Pursell
Derwinski	Heftel	Rahall
Dickinson	Holland	Railsback
Dingell	Hollenbeck	Rangel
Dixon	Horton	Ratchford
Dorgan	Howard	Reuss
Downey	Hoyer	Rhodes
Duncan	Hubbard	Rodino
Dunn	Huckaby	Roe
Dwyer	Hughes	Roemer
Dymally	Hutto	Rosenthal
Early	Jacobs	Rostenkowski
Eckart	Jeffords	Roth
Edgar	Jenkins	Roukema
Edwards (AL)	Jones (NC)	Roybal
Edwards (CA)	Jones (OK)	Russo
English	Jones (TN)	Sabo
Erdahl	Kastenmeier	Savage
Erlenborn	Kazen	Sawyer
Ertel	Kindness	Scheuer
Evans (DE)	Kogovsek	Schneider
Evans (IN)	LaFalce	Schroeder
Fary	Leach	Schumer
Fascell	Leland	Seiberling
Fazio	Levitass	Shamansky
Fenwick	Lewis	Shannon
Ferraro	Long (MD)	Sharp
Fiedler	Lowry	Shaw
Findley	Lundine	Simon
Fish	Marks	Smith (IA)
Fithian	Marlenee	Snowe
Flippo	Martin (IL)	Solarz
Florio	Martin (NC)	Stark
Foglietta	Matsui	Stokes
Foley	Mattox	Stratton
Ford (MI)	Mazzoli	Studds
Ford (TN)	McCloskey	Swift
Forsythe	McCollum	Synar
Fountain	McCurdy	Udall
Fowler	McHugh	Vento
Frank	McKinney	Walgren
Frost	Mica	Washington
Fuqua	Mikulski	Watkins
Garcia	Miller (CA)	Waxman
Gaydos	Mineta	Weaver
Gedensson	Minish	Weiss
Gephardt	Mitchell (MD)	White
Gilman	Moffett	Whitley
Gingrich	Mollohan	Whittaker
Ginn	Morrison	Williams (MT)
Glickman	Murtha	Williams (OH)
Gonzalez	Neal	Wirth
Gore	Nelson	Wolpe
Gradison	Nichols	Wright
Green	Nowak	Wyden
Guarini	Obey	Wylie
Gunderson	Ottinger	Yates
Hall (OH)	Panetta	Young (MO)
Hall, Ralph	Patterson	

NOT VOTING—29

Badham	Frenzel	Luken
Boner	Gramm	Michel
Breaux	Gray	Montgomery
Broomfield	Hance	Porter
Brown (OH)	Kemp	Richmond
Chapple	Lantos	Rose
Conyers	Latta	Stenholm
Cotter	Lehman	Thomas
Daschle	Livingston	Wilson
Dicks	Lott	

□ 1300

The Clerk announced the following pairs:

On this vote:

Mr. Broomfield for, with Mr. Thomas against.

Mr. Latta for, with Mr. Porter against.

Mr. Livingston for, with Mr. Frenzel against.

Mr. Lott for, with Mr. Gray against.

Messrs. KINDNESS, MICA, NICHOLS, RUSSO, and FITHIAN changed their votes from "aye" to "no."

Mr. LONG of Louisiana changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WOLPE. Mr. Chairman, I move to strike the last word.

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

Mr. WOLPE. Mr. Chairman, I rise in full support of the reauthorization of the Legal Services Corporation for another 2 years. The goal of the Legal Services Corporation is to effectuate justice—equal justice under the law—by making civil legal assistance available to those unable to afford legal counsel on their own. It is an attempt to reaffirm this Nation's belief that before the law all men stand equal. It is a goal that this Congress set for the Corporation in 1974. In my estimation the Corporation has been a remarkable success.

In past years, as appropriations or reauthorization bills for the Legal Services Corporation have been before this Congress, critics have come forth with what they consider "horror" stories about the operations of the Legal Services programs across the country. Attempts have been made to characterize as typical the highly controversial case or the occasional instance of bad judgment by the Corporation or local program. I do not pretend to agree with all that each of the over 320 local programs have done, but I suggest to my colleagues that the "horror stories" we have heard during this debate, as in previous debates, are the rare exception and are in no way the norm.

Last year Legal Services programs handled over 1.5 million legal matters for income-eligible clients—clients who for some reason or another came to legal aid for help. Many of these clients may have even been referred to Legal Services by our own professional staffs. Before we decide whether as a Congress and as a nation we should abandon a program to insure minimum access to justice for low-income persons, I suggest we look at what Legal Services really does:

This past winter on a 30-degree day, a mother and her 6-week-old child had no heat in their apartment; the landlord had turned it off. A local Legal Services lawyer invoked the law. The apartment had heat once again.

In Ohio, an 80-year-old woman was abandoned by her family at a migrant rest center because her family could no longer support her. She was referred to a local Legal Services program. Her attorney learned that the widow had never applied for social security survivor's benefits. Despite her eligibility for them, she had never heard of social security benefits. She was reunited with her family and is assured of social security benefits for the rest of her life.

In New York State an elderly couple was referred to Legal Services after signing a contract to have their home insulated for more than \$1,700. Inde-

pendent estimates placed the cost at \$400 or less. The Legal Services attorney claimed unconscionability, and truth-in-lending violations. The insulating company canceled the contract and performed the job for \$442 including finance charges.

In Missouri, a Legal Services program recovered damages for a poor illiterate victim of a car dealer. The car dealer had sold a \$300 truck for \$1,700.

These are but four examples of the types of matters handled by Legal Services attorneys as they seek to protect the legal rights of their clients. Most of these legal services involve matters one might expect to confront low-income persons. Roughly 30 percent of the cases involved family law problems, 14 percent concurred problems of consumer finance, 18 percent dealt with housing problems, and 17 percent centered on problems of income maintenance. These may appear to be mundane matters—but to the individual client like the four I just mentioned they are extremely important.

These few examples, real examples of how Legal Services affect the lives of this Nation's disadvantaged, demonstrate the need for continuation of the Legal Services program. I ask you, can we now say to that mother and newborn baby in Florida, to the elderly couple in New York, to the Michigan family in an unheated apartment, or to an 80-year-old woman in Ohio that they can no longer have legal assistance to enforce their rights? If we discontinue the Legal Services Corporation, that is in effect what will happen.

For many persons in this Nation, Legal Services demonstrates that our system can work. During his campaign and since he was elected, President Reagan has promised to make Government work for the people. The success of the 320 local legal aid programs in this country is a prime example of Government at its best. I urge all of my colleagues to support H.R. 3480 and reauthorize the Legal Services Corporation without further amendment.

(By unanimous consent, Mr. BROOKS was allowed to speak out of order.)

DONALD M. SCANTLEBURY

Mr. BROOKS. Mr. Chairman, it is my sad purpose in asking for this time to announce that Donald L. Scantlebury, Chief Accountant for the General Accounting Office, died this morning after a heart attack.

Mr. Scantlebury, who was 53, spent nearly half his life with the GAO where he established an enviable record of public service and dedication to the cause of good government.

Through his efforts, auditing and accounting standards have been developed and established throughout the Government that have led to greatly improved efficiency in Federal agencies and better control over fraud and waste. The standards he developed are also widely used in State and local gov-

ernments. They will stand as an enduring monument to his life's work.

Mr. Scantlebury was born in Hampton, Iowa. He took a degree in business administration at Antioch College and completed the executive development program at the University of Michigan before starting his career as a certified public accountant in Iowa. In addition to being GAO's Chief Accountant, he headed its Accounting and Financial Management Division at the time of his death.

Mr. Scantlebury is survived by his wife, Mary; sons Mark and Glen, and daughters Maria Malloy and Sandy Williams. My deepest sympathy is extended to them.

□ 1315

Mr. PEYSER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will just take a minute. Over the last several years in the House we have, I believe, taken one action after another that has affected women on the abortion issue and affected them, I believe, in a very negative way.

However, I think the demonstration that we have just seen on the floor of the House today—and I congratulate Republicans and Democrats alike who joined in the overwhelming defeat of an amendment that, on the very face of it was a denial of the most basic right of women in this country and of the Legal Services program.

I hope that maybe we can find more moderation in the kind of amendments that attack this program in not only dealing with women, but dealing with minorities and other groups that are in such desperate need of help.

I thank the Chairman for giving me this time.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would inquire as to whether the amendment has been printed in the RECORD for 2 legislative days.

Mr. ASHBROOK. Mr. Chairman, the amendment has been printed in the RECORD as required by the rule.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 12, strike out lines 4 and 5 and insert in lieu thereof the following:

(3) by amending paragraph (9) to read as follows:

"(9) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system;"

The CHAIRMAN. Under a prior agreement, by unanimous consent the gentleman from Ohio (Mr. ASHBROOK) is allocated 10 minutes for purposes of debate in support of his amendment.

Mr. ASHBROOK. Mr. Chairman, I ask unanimous consent that my amendment be modified to conform with the rules. The Parliamentarian informs me my amendment would

strike out inadvertently lines 4 and 5 which are needed to amend permanent law.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. KASTENMEIER. Mr. Chairman, reserving the right to object, as I understand it, this is a technical amendment. It does not change the substance of the amendment the gentleman proposes to offer.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. It is my understanding that the precise language is inserted, but at the proper place. As my colleague would indicate, I was striking lines 4 and 5. I am informed by the Parliamentarian that those are necessary to amend permanent law. My language therefore would go as subparagraph in section (3)(9). The precise language would be merely located where it should properly have been in the first place.

Mr. KASTENMEIER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio (Mr. ASHBROOK)?

There was no objection.

Mr. ASHBROOK. Mr. Chairman, I yield myself such time as I may consume.

My amendment is relatively simple and will take little explanation. It is one which I believe an overwhelming majority of my colleagues will be able to accept. I am simply trying to close yet another loophole in the present law which can be used by the Legal Services Corporation to promote its unpopular causes. If the amendment is adopted, the Legal Services Corporation will be specifically prohibited from pursuing forced busing cases in the courts.

My concerns about the present language in the law stem from the clause: " * * * except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities." This language, of course, provides the Corporation with the loophole which would allow it to become involved in forced busing/desegregation cases.

Only 1 week ago, the House voted overwhelmingly in support of an amendment sponsored by the gentleman from Texas, Mr. COLLINS, which would prohibit the Department of Justice from pursuing forced busing cases in the Federal courts. The vote on the Collins amendment was 265 to 122. I believe that my amendment is the next logical step in the right direction. It would prohibit another taxpayer-financed Government agency from promoting a practice which is opposed by the vast majority of Americans, rich and poor, black and white.

Mr. Chairman, during the debate on the rule and again during the general debate earlier today, we were reminded of the many excesses and abuses committed by the Legal Services Corporation. Let us take a look at the Corporation's involvement in desegregation cases.

Perhaps the most well known of the LSC lawsuits occurred in Boston when LSC lawyers sued to remove South Boston High School from the jurisdiction of the elected members of the Boston School Committee and place it in receivership.

More recently—in fact, earlier this year—the Southwestern Pennsylvania Legal Aid Service was successful in obtaining a Federal court order in U.S. district court to force the Albert Gallatin Area School District to begin two-way busing of its kindergarten students. Kindergarten students!

Mr. Chairman, like my colleague before me, Mr. SENSENBRENNER, I am seeking to close a loophole which needs to be closed. The authority of the Legal Services Corporation should be limited, not expanded. I urge my colleagues to support the amendment.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, the Members on this side have read the gentleman's amendment. We believe that it is desirable and we accept it on this side.

The CHAIRMAN. The gentleman from Wisconsin (Mr. KASTENMEIER) is allocated 10 minutes under prior agreement by unanimous consent.

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. I thank the gentleman for yielding.

I would merely like to point out, in opposition to this amendment that the gentleman from Ohio, that when he makes reference and seeks support for his amendment by making reference to the action taken by the House last week when this House voted to limit or actually to eliminate funding for the Department of Justice to pursue desegregation cases, that I believe that action has no relevance whatsoever to the issue at hand.

The question that we are considering now is whether legal services might be provided to a client whose fundamental rights might have been denied.

I am just suggesting that if the gentleman from Ohio seeks to rely on what he deems to be the support given him by the House last week, that certainly seems to be, in my judgment, invalid.

I oppose the amendment on the basis of the fact that this would, once again, be a deprivation of a right of an individual to even seek preliminary

advice in cases where desegregation might be at issue.

Mr. KASTENMEIER. Mr. Chairman, I would like to say this about the amendment. The House committee has just rejected an amendment which eliminates the ability of the legal services programs to respond to requests of eligible clients for advice. This is just such an amendment. The original language that this seeks to amend is part of the 1974 act. It has remained constant since then.

□ 1330

I certainly do not criticize the gentleman from Ohio; I think his offering this amendment is consistent with his concern that there may have been an abuse in terms of the use of advice with respect to desegregation matters—but he does in fact use the same language except that he strikes, "except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities;"

As Chairman RODINO suggested, I think that what is complained about does not justify making this deletion. I would certainly encourage the Legal Services Corporation to minimize their advice in terms of any deeper implication to parents. The committee has taken the action of removing the possibility of a class action against a public entity, a school board, earlier in our proceedings, so that this would seem to me to be overkill to try to also prevent needy parents from getting legal advice with reference to anything relating to desegregation of a public school.

I agree with the comments of my colleagues that for purposes of litigation there are other entities to help parents who may be concerned, and indeed we have prohibited from the beginning the ability of the Corporation to get into desegregation suits because we felt it was an unwise investment as far as resources were concerned, but I do think that the amendment of the gentleman from Ohio is unnecessary and ought to be rejected. ● Mr. GAYDOS. Mr. Chairman, I rise in support of the Ashbrook amendment to curtail the Legal Services Corporation's involvement in cases that lead to forced busing.

The Legal Services Corporation is something like our early efforts in rocketry—we built it with good intentions, we fired it with hope, and we hit something altogether different than the target we had in mind.

We aimed for equity in civil law and it hit our schools.

This does not mean the idea behind the rocket was necessarily a bad one.

It does mean the system needs a little guidance.

Mr. ASHBROOK's amendment will provide the guidance.

It will mark as out of bounds suits to bring on forced busing and consolidation of school districts that no one but

Legal Services lawyers want—not the minorities who are the unwilling recipients of the benefits of busing, in most cases, or the parents who ordered their lives around the neighborhood school.

There is much talk in Washington these days about signals, and in a way we all are in the signal corps.

This amendment will signal the well-intentioned lawyers in Legal Services that their job is to represent individuals who need help, and not to search and reach for broad, novel, and new applications of expanding law.

In the matter of schools, the people we represent quickly are beginning to understand that the court system of the United States is becoming a thing of much law and little justice. And they feel that justice should be the point.

Forced busing is universally unpopular with the people, and from the time it started, poll after poll has told us majorities of Americans of all races and classes reject the idea because it interferes with education, the only reason for having public schools.

Even the man whose studies and theory were instrumental in establishing court-ordered busing, Dr. James Coleman, of the University of Chicago, has backed away from the concept, or at least revisited it with a different point of view.

A few years ago he noted that a "high degree of disorder" seems to ride the buses into many classrooms, and recently he concluded that private schools do a better job of educating than public schools, in part because they are more orderly and disciplined.

So the current state of thought on education is that the absence of turmoil and the presence of order helps young people learn.

And what we would do by adopting Mr. ASHBROOK's amendment is to bring Legal Services up to the most current level of educational thought.

Thus we would provide the necessary guidance and direction for an idea that still is worth trying—having the system of justice live up to its title. ●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer a second amendment which was printed in the RECORD as required by the rule.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 12, line 16, strike out "or" after the semicolon.

Page 12, line 19, strike out the two periods and closed quotation marks and insert in lieu thereof "; or".

Page 12, insert the following after line 19: "(13) to provide legal assistance in any litigation in which a local board of education responsible for the administration of public elementary or secondary schools, or any of

its employees acting in an official capacity and within the scope of his or her authority, is a defendant."

The CHAIRMAN. Under the prior agreement by unanimous consent, the gentleman from Ohio is allocated 10 minutes for debate in support of his amendment.

Mr. ASHBROOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are at a time when financial resources are scarce at every level of government. Proponents of the Legal Services Corporation (LSC) argue that it is necessary purely for the purpose of providing minimally for legal services poor people desperately need.

If that is the true reason for the continued existence of the Legal Services Corporation, it is well served by my amendment. Resources the poor are said so desperately to need have been used by LSC, on its own initiative, to bring suits against local school officials to: First, prohibit States from requiring students to pass a test of their ability to read, write, and compute before they receive a high school diploma; second, require teachers of black students in inner-city schools to take courses in so-called black English; third, forbid schools from suspending or expelling disruptive students unless they conduct a quasi-judicial prior hearing complete with an outside hearing officer and with the school bearing the burden of proof; fourth, bar all corporal punishment of any student, regardless of circumstances; and, fifth, to ban the grouping of students according to ability or past performance if the grouping causes blacks to be overrepresented in some groups and underrepresented in others.

Each of these at best controversial initiatives is costly in other areas where fiscal and time pressure is already intense. They increase the case burden on the courts. More important, each such case requires State and local schools to defend themselves, adding to the 10 million man-hour burden already imposed on them by Federal regulations. However, one may feel about these issues personally, they do not fit into the image of a Legal Services Corporation devoted entirely to meeting the individual legal need of poor people.

By law, enforcement of rights of handicapped children under the Education for All Handicapped Children Act is charged to the Civil Rights Office of the Department of Education. General civil rights enforcement has been assigned as well to the Department of Justice. In areas where Congress has decided to impose its will on local schools, it has specified agencies and appropriated funds for the purpose. In no case has the Legal Services Corporation been so specified. It has assumed these powers itself, set these goals itself, and appropriated funds for these activities by diverting

them from individual legal services to poor people.

Those who honestly believe that the LSC exists to provide minimum counseling should be the first to vote to prevent the diversion of its funds to other purposes. Likewise, those favoring more aid to education should support my effort to prevent the LSC from using funds to force local schools to defend themselves at their own expense. Liberal supporters of LSC, according to their own arguments, have little reason to dispute the priorities represented by my amendment.

Nonliberals of either party have even less cause to oppose my amendment. I am trying to prevent not merely waste, but the use of public funds to impose on every school in this country policies which few if any conservatives or other nonliberals could approve.

Congress has imposed more than enough regulations upon our State and local schools through its constitutional power to legislate. We can at least stop the LSC in its extraconstitutional campaign for more such impositions on local educational autonomy.

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

Mr. FRANK. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Under the prior agreement, the gentleman from Massachusetts is allocated 10 minutes.

Mr. FRANK. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. RAILSBACK).

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

Mr. RAILSBACK. Mr. Chairman, this amendment is very different from the one that those of us on our side recently supported. What this would do, in my opinion, is very effectively remove the provision of legal services to a poor person in virtually any kind of a situation involving a school board. It could be an arbitrary action committed by a school board against, say, a minority or a handicapped person.

What I would like to do is just very briefly recite some of the cases that have been brought by legal aid lawyers.

One case involved handicapped students excluded from school or provided inappropriate education in violation of State and Federal laws. That was the case of Mills against Board of Education.

Another case involved children from poor families denied textbooks because their parents could not pay extra fees, in violation of State guarantees of free education.

Another case involved Native Alaskan students forced to leave homes and families in order to attend school located hundreds of miles away. That was Tobeluk against Lind.

Another case involved students whose church prohibited them from engaging in practices required by their schools.

Another case involved students who are the victims of misuse of Federal funds targeted for them.

There have been, in other words, a number of cases involving the poor relating to either discriminatory or arbitrary actions taken by a school board. The members of the subcommittee, in discussing the two amendments, decided that we could support the one Ashbrook amendment which dealt with the problem of desegregation because, for one thing, we found out that there had been no desegregation cases. We questioned the use of taxpayer's funds in some of those cases. However in the present case there is a clear record that there have been some arbitrary actions taken by school boards or by its employees that require redress.

So, this amendment, I believe, should be defeated, and I would urge my colleagues to defeat it.

Mr. FRANK. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas (Mr. GLICKMAN).

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

Mr. GLICKMAN. Mr. Chairman, I served on a school board for 4 years before I came here, and if Members believe there is something implicitly special, holy, about school boards in this country, then I think that they are vastly mistaken. They make lots of mistakes, which affect poor kids and rich kids. A school board could improperly classify a student, let us say putting a child into a handicapped classification who should not be there. A teacher may improperly promote or not promote children from grade to grade. There are many children who are victims of school violence, who wanted to seek relief from the school system.

What we are saying in this kind of situations is that if you are rich, you can hire a lawyer and protest your rights but if you are poor, you cannot obtain legal redress.

I noted with interest that some of the proponents of this amendment are the same ones who believe that there are great problems with the public school system, and I believe there are great problems with the system, but we should not presume that school boards and their employees should be immune from the kind of equal access to justice as rich people are.

Just from my own experience, being a participant school system, I would tell the Members that the same problems exist there for rich kids as they do for poor kids, and I think that there ought to be equal access to redress of grievances that occur.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I thank the gentleman for yielding. I just want to identify myself with his remarks. I feel exactly as he does.

There is no real reason to separate out the school boards. I have received correspondence from a number of people in my district concerned with handicapped children who think it is pretty important to preserve this right.

I would also remind the gentleman and the membership that we have earlier in this legislation effectively prohibited class actions against governmental entities, which includes school boards. For that reason it seems to me that all of the things that concern people about abuse of litigation in this area have been satisfied, and now we are preserving what I think is the important part of it if we defeat this amendment.

Mr. GLICKMAN. I thank the gentleman.

Mr. ASHBROOK. Mr. Chairman, I reserve the balance of my time.

Mr. FRANK. Mr. Chairman, I yield myself 3 minutes.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Chairman, I am glad the gentleman from Virginia made the point, which really is central to this, that class actions by this bill are banned. So there cannot be, with or without this amendment, any class actions against school boards. What is left then, is that this amendment says that no impoverished person will be able to use Legal Services ever to sue any school board, any teacher, any school bus driver, any administrator, for anything. That is what it says. It is not a measure to control Legal Services Corporation; it is a measure to celebrate the infallibility of every local school district in America because, once again, we are not talking class actions; we are not talking large expenditures of money; we are not talking knocking out competency tests. We are talking about individual instances, only individual instances.

If a child is embroiled in some kind of a legal dispute in a school, and has poor parents, or a poor single parent, the Legal Services Corporation may not act on that child's behalf. It is not just the school board, it says any employee acting under the authority of the school board, and you do not know until the final decision whether or not they are acting under board authority. So you cannot take the case.

So, if you assume that no poor child ever anywhere in America has a legitimate legal objection to the way he or she was treated by any teacher, by any school busdriver, by any janitor, by any employees of a school board, then the gentleman's amendment makes sense if you really believe in that degree of infallibility. If, on the other hand, you believe that there will be some instances—not when class actions should be brought—but when individual students might be legitimately in need of legal assistance because of some particular dispute, then you ought to vote down the amendment.

There are no class actions, but if a handicapped child is improperly classified, if there is a dispute about racial or religious prejudice, if there is a dispute about whether or not someone is observing the silent prayer improperly or not, if a school busdriver were observed to be doing something improper, they could not sue.

□ 1345

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding.

I would like to speak to this issue, because in my own district we had a case like this—a child classified as special ed. The parents were not too well off but well off enough to get to the Columbia Presbyterian Hospital in New York, where he was found to be above normal.

Now, what are we going to do if a child is classified as special ed, put in special ed classes year after year after year. The parents may be absolutely indigent; they have no attorney, and they cannot pay for hospital examinations. They have no access to neurologists or psychologists; there is no protection for that family.

Mr. Chairman, I must say that my colleague has made a good point, and I thank the gentleman from Massachusetts (Mr. FRANK) for his remarks.

Mr. ASHBROOK. Mr. Chairman, I yield myself 1 minute.

I will simply say that I want the cold, sterile RECORD to note that I have a smile on my face, and I want to say, with a smile on my face, that I am glad to learn that there had never been a right in this country vindicated and there has never been a poor person assisted before the Legal Services Corporation. Apparently we were absolutely in trouble until we had the Legal Services Corporation.

It absolutely and literally defies our imagination to think that all of these things would not have been accomplished, that no rights would ever have been vindicated, and that no justice would ever have been dispensed without the Legal Services Corporation. But I know that is not the case. I think what we are talking about is limiting legal services to those areas in this country where we should direct our attention.

I am simply saying that this is an area fraught with many problems. I could give the Members cases where they have gone into things as foolish as suing school boards to oppose minimum achievement tests. We want to keep them out of that. Rights are not going to go through the cracks.

Mr. Chairman, I say to the Members, vote for my amendment.

Mr. FRANK. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the example the gentleman from Ohio (Mr. ASHBROOK) has given, whether with a smile or with a

frown, was taken care of by the amendment offered by the gentleman from Texas; that is the minimum achievement test. That was a class action suit.

I do not claim that no right is ever vindicated or could not be vindicated without the Legal Services Corporation. I do say there is no rational basis for saying in individual cases that these sorts of cases should be excluded.

Yes; there has to be a limitation of resources, but why does the gentleman automatically assume that any harm done potentially to a poor child by a bus driver, a janitor, or a school teacher would automatically be less important than harm done somewhere else? That is what the gentleman says. We automatically exclude all the classifications where a school board or a school employee may be involved, and maybe they will get help privately and maybe they will not.

That is the reason some of us think there ought to be a Legal Services Corporation. We do not think the poor ought to be entirely dependent for the vindication of their rights on the private charity of lawyers. I hope it is there. But I do not think we should say to a poor 5-year-old or a poor 7-year-old who may have been victimized by a bus driver or a teacher or anybody working for the school that they have no place to get help. Maybe they will get help, and maybe they will not. They ought to have a place to get help for free, but if they do not, we say to them, "Then you're out of luck, kid."

Mr. Chairman, that is the effect of this amendment.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I think my colleague raises a legitimate point, but I counter with the same response I gave before to my colleague, the gentleman from Massachusetts, that I do not believe these rights could not be vindicated without the Legal Services Corporation.

Mr. FRANK. Mr. Chairman, I did not say that. I said maybe they will be and maybe they will not be. But, I said, if there is the legal services program, then that 7-year old, or 8-year old who is abused by some busdriver, some gym teacher, or somebody else can go to Legal Services and get help for sure. If not, maybe there will be a private lawyer who can provide that same help, but then again, maybe there will not be.

I wish that all the private lawyers would do this for free, but I do not think the poor people of this country will be vindicated or have their rights protected because of my wishes or the wishes of the gentleman from Ohio. Yes; some will, but others will not be.

I suggest to the gentleman that there is no rational basis for excluding

every schoolbus driver or every school board in America and every employee of every school board in America. Despite the gentleman's argument, they are not infallible.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

Mrs. CHISHOLM. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio. The proposed amendment would effectively bar poor people from asserting legal rights and protections related to education which are provided under State law, which are guaranteed by the U.S. Constitution and which have been established by Congress.

In Brown against Board of Education the Supreme Court stated that—

It is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the State has undertaken to provide it, is a right which must be made available to all on equal terms.

The question then arises as to whether an indigent child, or his or her parent, who cannot afford to pay an attorney, can really have an opportunity for an education on equal terms if they have no ability to seek legal redress?

If Congress were to pass this amendment, whenever the rights of an indigent child are violated by a school system, that child and his parents would no longer have a right to any assistance from a Legal Services office. The author of this amendment has pointed to the Ann Arbor, Mich. case involving a decision that required teachers to learn "black English," as an example of the potential danger of having legal services programs involved in the education area. I do not wish to debate the merits of this particular case because I believe that the decision could have and probably should have gone the other way. However, the issue here is not whether Michigan Legal Services should have brought this suit but whether or not the indigent parents in Ann Arbor had a right to legal representation as they sought to protect their children's educational rights. Legal Services' involvement in education cases should not and must not be judged by this one case. We all can name court decisions which we disliked; however, we never suggest that the winning attorney be prohibited from representing other clients in similar cases. Yet this amendment seeks to place this restriction on the Legal Services Corporation.

The Corporation has been involved in many other important education issues. In two specific instances, Legal Services represented indigent parents who could not afford the public school "fees" charged by local school districts. These parents faced the possibility of having their children barred from public schools simply because they were too poor to pay the required fees. The State supreme courts, in

both cases, found in favor of the indigent parents. In the case of Aldridge against Normandy School District, students whose religious beliefs prohibited them from engaging in various school activities were also successfully represented by LSC attorneys.

Further, when Congress enacted the Education for all Handicapped Children Act of 1975, we found that millions of handicapped youngsters were receiving inappropriate educational services. It is not surprising, then, that this area has been the most active one with respect to Legal Services work in the education field. In the period from October 1979 through March 1980, 45.7 percent of the requests for assistance to the Corporation's support center for education issues involved the special education area.

Legal Services attorneys have also secured relief with respect to the unlawful expenditure of Federal funds. In 1975, the Supreme Court ruled that students are entitled to procedural due process safeguards before expulsion from public school. Legal Services has represented students in their constitutional right to procedural due process of law. LSC attorneys have also been involved in cases concerning racial and sex discrimination in education.

I would point out to my colleagues, who are concerned about the busing issue, that legal services programs are already barred by statute from providing assistance in any proceeding or litigation related to school desegregation.

Finally, I would remind my colleagues that the right to a free appropriate public education is a basic constitutional right. If the amendment, offered by the gentleman from Ohio, were to pass, it would represent an effective denial of the right to an appropriate education for any indigent child who is placed in an inappropriate setting or whose rights are otherwise violated. This amendment is at war with the American legal principle of "equal access to * * * justice." People who could afford counsel could assert, in proceedings and litigation, Federal rights created by Congress, constitutional guarantees, and the protections of State law. Yet we propose to deny these same rights and protections to the poor.

Education has always been deemed the "great equalizer" in our country. The proposed limitation on the legal services corporation would abandon this tradition by effectively denying poor people the ability to enforce their educational rights. Not only the poor, but democracy itself, must suffer from such a denial. I urge you to oppose this amendment as a threat to the democratic rights of the children of the poor in this country.

Mr. ASHBROOK. Mr. Chairman, I yield myself 1 minute of my time, and I will merely say that I do not know how they do things in Massachusetts, but in the situation the gentleman is talking about I would hope that this 7-year-old would, first of all, go to the

parent or guardian, or, second, go to the teacher or principal, or, third, go the district attorney in the county where they live.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I answer the gentleman by saying, because the parent or the teacher may not be a lawyer, and because the teacher may be the transgressor, and the district attorney cannot get involved in a civil case. They cannot go to the district attorney. If they have a civil suit, the district attorney cannot help them because he cannot get involved in a civil suit.

What the gentleman is questioning is the whole basis for the Legal Services Corporation. I know that is the fact, so why not kill the whole bill? Let us not start picking it apart area by area, because there is no rational basis for that.

Mr. KOGOVSEK. Mr. Chairman, it is important to recognize the speciousness of the arguments of the proponents of this amendment.

The complaints about Legal Services' education litigation have cited several lawsuits as examples of abuses by Legal Services attorneys. Every case named was a case in which the courts found the legal rights of parents and students had been violated. In fact, when Legal Services attorneys have found it necessary to resort to litigation, those suits, far from being frivolous, have been successful at a much higher rate than lawsuits brought by the private bar generally. These complaints about education litigation are, therefore, not complaints about legal services for the poor. They are complaints about the courts. Poor people should not be punished by withholding future legal services because they have been successful in asserting their rights in the past.

Proponents also apparently complain about the alleged divisive and political impact of education litigation by Legal Services. In many cases, however, this litigation has had the opposite effect. A good example is litigation in Colorado, the Lujan School finance case, filed against the Colorado State Board of Education in 1977 by a group of attorneys, including Colorado Rural Legal Services. When the case was filed, many people felt threatened by this school finance case. The lawsuit was successful but there was a general fear that the case would result in less money for some school districts. Through media accounts of the case and the work of the parents, the public has begun to learn more about the way schools are financed and the problems school officials face due to the unequal finance system. Community leaders, representing school boards, professional and community educational associations, civic groups, parents, and local governments have

now begun to view the case and issue as a way to improve schools. They have joined together in an effort to improve the schools and the initial fear of losing money has turned into support for quality education. What began as an effort of concerned parents, assisted by private and Legal Services attorneys, working together, has become a broad-based bipartisan statewide coalition, working to improve statewide education for all children.

For the past two decades, we have singled out the education of children from low-income families as a major priority; and we have created programs, such as title I, to address the needs of those children. It would be the height of perversity to then single out education as the one area where those same low income families cannot pursue their rights—through the courts where necessary—concerning the education of those children.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 176, noes 219, not voting 36, as follows:

[Roll No. 87]

AYES—176

Albosta	Evans (DE)	Martin (NY)
Alexander	Evans (GA)	McCollum
Anthony	Fields	McDade
Applegate	Fountain	McDonald
Archer	Gaydos	McEwen
Ashbrook	Gibbons	McGrath
Bafalis	Gingrich	Mica
Bailey (MO)	Ginn	Miller (OH)
Barnard	Goldwater	Mitchell (NY)
Beard	Goodling	Moakley
Benedict	Grisham	Moore
Bethune	Gunderson	Moorhead
Bevill	Hagedorn	Morrison
Bliley	Hall, Ralph	Mottl
Brinkley	Hall, Sam	Murphy
Broomfield	Hammerschmidt	Murtha
Broyhill	Hansen (ID)	Myers
Burgener	Hansen (UT)	Napier
Campbell	Hartnett	Natcher
Carman	Hendon	Nelligan
Carney	Hightower	Nichols
Chappell	Hillis	O'Brien
Cheney	Holland	Oakar
Coats	Holt	Parris
Coleman	Hopkins	Pashayan
Collins (TX)	Hubbard	Patman
Conable	Huckaby	Paul
Corcoran	Hunter	Perkins
Courter	Hutto	Petri
Coyne, James	Ireland	Pickle
Craig	Jeffries	Quillen
Crane, Daniel	Johnston	Rhodes
Crane, Phillip	Kindness	Ritter
Daniel, Dan	Kramer	Roberts (KS)
Daniel, R. W.	Lagomarsino	Roberts (SD)
Dannemeyer	Leath	Robinson
Daub	LeBoutillier	Roemer
Davis	Lee	Rogers
Derwinski	Lent	Roth
Donnelly	Lewis	Rousselot
Dornan	Loeffler	Rudd
Dougherty	Long (LA)	Schulze
Dreier	Lowery	Sensenbrenner
Duncan	Lujan	Shaw
Edwards (OK)	Marlenee	Shelby
Emerson	Marriott	Shumway
Emery	Martin (NC)	Shuster

Siljander
Skeen
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton

Staton
Stump
Tauzin
Taylor
Traxler
Trible
Vander Jagt
Walker
Wampler
Watkins
Weber (MN)
Weber (OH)

White
Whitehurst
Whittaker
Whitten
Winn
Wolf
Wortley
Yatron
Young (AK)
Young (FL)
Young (MO)

□ 1400

The Clerk announced the following pairs:

On this vote:

Mr. Badham for, with Mr. Mollohan against.

Mr. Chappie for, with Mr. Addabbo against.

Mr. Dickinson for, with Mr. Gray against.

Mr. Latta for, with Mr. Frenzel against.

Mr. Livingston for, with Mr. Horton against.

Mr. Lott for, with Mrs. Martin of Illinois against.

Messrs. RINALDO, NELSON, RUSSO, LUNGREN, VOLKMER, and CLINGER changed their votes from "aye" to "no."

Mr. FOUNTAIN and Mr. PASH-AYAN changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KAZEN

Mr. KAZEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KAZEN; Page 12, strike out lines 10 through 16 and insert in lieu thereof the following:

"(11) to provide legal assistance for or on behalf of any alien who has not been lawfully admitted for permanent residence in the United States unless the residence of the alien in the United States is authorized by the Attorney General; or

The CHAIRMAN. In accordance with the prior agreement, under the unanimous-consent agreement, the gentleman from Texas is allocated 15 minutes in support of his amendment.

Mr. KAZEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment which I offer is a very simple amendment. It just prohibits legal assistance to any alien who is in this country illegally. Any other who is here legally would be entitled to assistance.

The bill, if you look at line 11 on page 12, prohibits legal assistance for or on behalf of any individual who is known to be an alien in the United States and so forth.

Under the rules which have been promulgated by the Corporation, a recipient does not have to ask any person that is seeking assistance whether or not he is an alien. The only way that he would know that the person is an alien is if the particular case were a deportation proceeding or any other matter involving immigration.

Now, we are talking, of course, about civil cases. This does not preclude an alien who is picked up by Immigration for a violation of law from having legal counsel.

What we are talking about here is extending legal services to our people, the people of this country, and to permanent aliens in this country who have the equal protection of our laws. The funds for this Corporation have already been cut by 25 percent; the chances are that the other body is

Akaka
Anderson
Andrews
Annunzio
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnes
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bouquard
Bowen
Brodhead
Brooks
Brown (CA)
Brown (CO)
Burton, John
Burton, Phillip
Butler
Byron
Chisholm
Clay
Clinger
Coelho
Collins (IL)
Conte
Coughlin
Coyne, William
Crockett
D'Amours
Danielson
Daschle
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dicks
Dixon
Dorgan
Downey
Dunn
Dwyer
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
English
Erdahl
Erlenborn
Ertel
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler

NOES—219

Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frank
Frost
Fuqua
Garcia
Gejdenson
Gilman
Glickman
Gonzalez
Gore
Gradison
Green
Gregg
Guarini
Hall (OH)
Hamilton
Harkin
Hatcher
Heckler
Hefner
Hefstel
Hertel
Hiler
Hollenbeck
Howard
Hoyer
Hughes
Hyde
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kildee
Kogovsek
LaFalce
Leach
Leland
Levitas
Long (MD)
Lowry
Lundine
Lungren
Madigan
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCloskey
McCurdy
McHugh
McKinney
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)

Moffett
Molinari
Neal
Nelson
Nowak
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Peysner
Porter
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Rodino
Roe
Rosenthal
Rostenkowski
Roukema
Roybal
Russo
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Selberling
Shamansky
Shannon
Sharp
Simon
Smith (IA)
Solarz
St Germain
Stark
Stokes
Stratton
Studds
Swift
Synar
Tauke
Udall
Vento
Volkmer
Walgren
Washington
Waxman
Weaver
Weiss
Whitley
Williams (MT)
Williams (OH)
Wirth
Wolpe
Wright
Wyden
Yates
Zablocki
Zeferetti

NOT VOTING—36

Addabbo
Badham
Boner
Breaux
Brown (OH)
Chappie
Clausen
Conyers
Cotter
Dickinson
Dingell
Dymally

Frenzel
Gephardt
Gramm
Gray
Hance
Hawkins
Horton
Kemp
Lantos
Latta
Lehman
Livingston

Lott
Luken
Martin (IL)
Michel
Mollohan
Montgomery
Rose
Skelton
Stenholm
Thomas
Wilson
Wylie

going to cut even deeper into this program. If that happens, if these illegal aliens are continued to be served, there are not going to be enough attorneys to represent our people, the people for which this particular program was established.

It is very simple. In social security we now require some type of documentation to establish immigration status before a social security card is issued.

□ 1415

SSI programs require documentation on immigration status from the applicant. All persons are asked for their birth certificate or other acceptable proof of American citizenship and the alien usually provides the green card, which is fine. Applicants under the CETA program also need to show documentation as to their birth or immigration status. Applicants for AFDC need to provide documentation. Why not under this program and why can we not deny illegal aliens this service. We are not denying them access to the courts. We are just saying that the taxpayers shall not pay for these services.

I believe the bill itself in the next section, section 12, beginning on line 25, will probably solve the problem that we had in the past, not knowing that a person is an illegal alien, because the bill says:

The Corporation shall require each recipient to maintain documentation—

(1) demonstrating the eligibility of each person to whom such recipient provides legal assistance.

I think that language will take care of one of the shortcomings the bill has had in the past—that of not having to inquire as to whether the particular recipient is an alien or not.

Let me just ask the distinguished chairman of the subcommittee if I am correct in that interpretation. Will the gentleman look at page 12 at the bottom, beginning on line 24? I would ask whether or not from now on, in accordance with that provision, the attorneys for the Corporation must inquire, must require documentation from every applicant that comes before them and, therefore, ascertain whether they are in this country legally or not?

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I certainly will.

Mr. KASTENMEIER. That is my interpretation. That is to say that with section 12 in the bill adopted, and if any further amendment is adopted with respect to qualification of individuals, whether alien or otherwise, that there is an affirmative responsibility on the part of the legal services program to ascertain eligibility in terms of documentation with respect to citizenship of status.

Mr. KAZEN. I thank the distinguished chairman.

The only reason I brought this amendment to the floor today is because in my district in south Texas it

has been brought to my attention that some of these legal aid attorneys have as much as two-thirds of their caseload as illegal alien clients, which I must say does not leave much for our people. I understand the distinguished gentleman from Florida has an amendment he is going to offer as a substitute for mine. We will debate that amendment later. What he does is enumerate the various types of circumstances under which a person may be denied legal assistance.

My amendment, I submit to the Committee, is very simple, very direct, and, in my opinion, catches every single possible circumstance that may come up, and we do not exempt anyone who has not been admitted legally to the United States, whether on a permanent basis or under the auspices or permission of the Attorney General of the United States.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I am delighted to yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding. If, in fact, it is known when a person walks into one of these Legal Services offices that that person is not there legally, why is he or she not deported?

Mr. KAZEN. I cannot answer the gentleman. But up until now that attorney did not know whether or not a client was illegal because he did not have to ask.

Mr. GARCIA. If the gentleman will yield further, the gentleman from Texas has just said that two-thirds of the clients using that service in his district in south Texas are known to be in this category.

Mr. KAZEN. Let me back off. The information I get is that one of the attorneys said, "I do not have to ask under the rules and regulations, I do not have to ask a client whether or not he is an alien. I would suspect that I have a lot of alien clients, maybe as much as two-thirds of my caseload," is what he answered, simply because he gave as an excuse that they were not known aliens to him, and his interpretation, the Corporation's interpretation is that you do not have to ask them.

Unless it was a case dealing with deportation proceedings, he would not know. That is why I wanted this legislative history made on this floor and asked the distinguished gentleman from Wisconsin (Mr. KASTENMEIER), the chairman. The gentleman heard what he replied. If this remains in the bill then, under the next section, that lawyer must ask. He is bound to ask for documentation to show that the client is here legally.

Mr. GARCIA. Will the gentleman from Texas yield further?

Mr. KAZEN. Certainly I continue to yield.

Mr. GARCIA. I would like to back-track with the gentleman from Texas. Starting on page 12, line 24, it is very clear, and the gentleman is the one

who brought this up. The gentleman said, "The Corporation shall require each recipient to maintain documentation."

I assume before a person sits down for the first time that he or she must in some form demonstrate that they are entitled to those services?

Mr. KAZEN. The gentleman is correct. But this is the first time that that has happened. If I may take my time, the gentleman is correct, but before that happens we have to put the prohibition from the previous section in the bill.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. Certainly.

Mr. McCOLLUM. Mr. Chairman, I think there is an explanation. I agree with the gentleman from Texas (Mr. KAZEN) on this point, but there is a further problem involved in the language, "known to be an illegal alien."

We have Corporation attorneys interpreting that language to mean that no one is known to be an illegal alien until such time as an adjudicatory body or individual, a judge, or a judge of immigration, determines that they are either excludable or ready for deportation, and that defeats the entire purpose of prohibiting Legal Services to illegal aliens. They are not illegally known until that time, so I think the gentleman from Texas' point is well taken.

For that reason I rise to support him on this.

Mr. KAZEN. I thank the distinguished gentleman for his contribution.

Let me make one further point before I yield. I want to make my position clear. I am in support of this bill. I have always supported this bill. I have been in the Congress since we established this program. My constituents have more need for this program than probably the constituents of any district in the United States.

So I ask my colleagues please do not take what I am saying here on behalf of this amendment as being an attempt to try to derail this bill because, quite to the contrary, I want as much benefit as I possibly can get from this bill for my constituents.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I am delighted to yield to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Is it not true, I would ask the gentleman in the well, that I showed him a lawsuit that had been recently filed in which the petition stated that these are Mexican nationals who are filing and who are now residing in Mexico as party-plaintiffs to the action to show the abuse that has been made?

Mr. KAZEN. Let me tell the gentleman that is correct. But being Mexican nationals does not automatically disqualify them. It is the residence

here. They may be Mexican nationals living in the United States legally.

Mr. WHITE. Yes, but these were residents of Mexico, Mexican nationals, clearly, as stated in the petition itself, to show the gentleman is trying to close loopholes to try to bring this program for the benefit of the poor in this country.

Mr. KAZEN. I am sorry I took so much time, Mr. Chairman. I reserve the balance of my time.

The CHAIRMAN. Under the prior agreement, by unanimous consent, the Chair allocates 15 minutes to the gentleman from New Jersey (Mr. RODINO) in opposition to this amendment.

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

Mr. RODINO. Mr. Chairman, I will proceed for a few minutes and then reserve the balance of my time.

First of all, I would like to address myself to the gentleman who offered this amendment. I know he offers the amendment in good faith. I know the problem of so-called illegal aliens is one that we have considered for a period of time

I would, however, like to point out to the gentleman that the amendment he offers would prohibit, in my judgment, any kind of assistance under the Legal Services Corporation to a person who is here not as a lawfully admitted permanent resident.

Having said that, I would like the gentleman to know that his excludes a number of people or groups of people who are here, have residence here, and who are not in illegal status. I would like to inquire of the gentleman, and would yield to him for the purpose of answering, whether or not it is his intention to preclude the rendering of legal services to individuals who are the spouses, children, or parents, of U.S. citizens who are eligible for permanent resident status.

Mr. KAZEN. Will the gentleman yield to me?

Mr. RODINO. I yield to the gentleman from Texas.

Mr. KAZEN. I would ask the gentleman: are they here with the sanction of the Attorney General? They have to be here some way.

Mr. RODINO. I would ask the gentleman how would the individual suggest to me that they come with the sanction of the Attorney General?

Mr. KAZEN. Are they here illegally? Mr. RODINO. No, they are not.

Mr. KAZEN. Are they here legally?

Mr. RODINO. I would suggest to the gentleman that while I think he is trying to address a particular problem he goes far afield. Let me ask, would the gentleman preclude legal services to an individual who is the spouse of a permanent resident who has qualified for admission to the United States after having been before a consular officer, who is admitted here but is not a lawfully admitted permanent resident?

Mr. KAZEN. If the gentleman will read the rest of the amendment:

Unless the residence of the alien in the United States is authorized by the Attorney General or any agency of the United States.

All I want to make sure is they are here legally.

Mr. RODINO. I would like to remind the gentleman that while I am sure he is conversant with immigration law, the term "residence" has never been nailed down. It is very, very questionable as to whether or not the individual to whom I have referred would be an individual who has that kind of "residence" which has been authorized by the Attorney General.

Mr. KAZEN. Will the gentleman yield further?

Mr. RODINO. Surely I yield.

Mr. KAZEN. How would that spouse or whatever case the gentleman thinks about, how will they ever require the services of this Corporation? Would they not have, if it involves their departure from this country, if it involved a question of their stay in this country, would they not still have access to a court-appointed attorney?

Mr. RODINO. I beg to differ with the gentleman. There is no requirement that there be, in immigration cases, a court-appointed attorney. In deportation cases, aliens have the privilege of obtaining a lawyer, but the immigration law does not require the appointment of one.

I want the gentleman to know that that is the law.

Mr. KAZEN. All I am saying is this, Mr. Chairman, and you might know more of the immigration law than I do, and I concede you do, all I am saying is what we are trying to put into this amendment is the fact that if you are in this country illegally you are not entitled to legal assistance, just like you are not entitled to food stamps, just like you are not entitled to AFDC, just like you are not entitled to anything else under the programs in this country.

That is all I am saying.

□ 1430

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Texas.

Mr. WHITE. I thank the Chairman for yielding. As I understand the gentleman in the well (Mr. KAZEN) as his amendment has been presented, if an agency of the U.S. Government approves residence, whether the person is actually a resident or not, then he would be eligible for legal services. That is the criterion.

Mr. RODINO. I point out to the gentleman again that the term "residence" has not been defined and the immigration law does deal with the Attorney General's authority to grant it. The issue will not arise unless an individual has access to legal services.

Mr. WHITE. But the amendment does not say "actual residence"; it says "approved for residence." It does not say actual residence. It says approved for residence.

Mr. RODINO. The question as to residence is something that has not been clarified. There is no clear definition of residence. It will become an issue as to whether or not that person actually was a resident, and yet under the amendment this person would be denied access to legal counsel in order to establish that.

Mr. WHITE. The chairman cannot tell me that the State of New Jersey does not have a definition of residence. He cannot tell me that 50 States do not have individually a definition of residence just like the State of Texas does.

Mr. RODINO. The question of residence is something that we have got to establish under our immigration laws. I can tell the gentleman that the term is one that has been used, but it is imprecise, and issues may arise with reference to that very word.

Mr. WHITE. But I will state to the chairman to repeat the question is the trigger. He states residence, if he approves for residence. He does not necessarily define in his approval what residence is. Once having proof of residence, then he would qualify. It does not say actual residence in his amendment, as I understand the amendment.

Mr. RODINO. If I may go on, just let me point out that I believe this amendment would deny services to the following groups of people: Persons who have applied for political asylum in this country; persons whose U.S. citizenship is in dispute; Cuban and Haitian entrants who have been granted special legal status to remain in this country; spouses and children of permanent resident aliens; H-2 workers who have entered the country; persons needing legal assistance to document their eligibility for U.S. citizenship or resident alien status; persons who have been granted humanitarian parole; persons who claim derivative U.S. citizenship status; persons granted stays of deportation. All of these people would be precluded from even being able to establish that they may be here under "color of law."

I think that this amendment goes entirely too far and, therefore, I oppose it and oppose it strenuously.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Florida.

Mr. McCOLLUM. I thank the gentleman for yielding.

Mr. Chairman, I would like to speak in opposition to the amendment offered by the gentleman from Texas (Mr. KAZEN) if I might, please.

I have the same misgivings in large measure although not totally as the distinguished chairman of the Committee on the Judiciary (Mr. RODINO) of my committee has. As a member of the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary, I have analyzed this problem at some length. I wish to commend,

though, the gentleman from Texas (Mr. KAZEN) for recognizing the fact that there are literally millions of illegal immigrants in this country, illegal aliens who in fact are being represented by Legal Services counsel, and for recognizing the fact that Legal Services counsel literally are allowed today to represent those millions who would not be allowed representation under his particular proposal.

However, the enumerations of the chairman of the Committee on the Judiciary, the distinguished gentleman from New Jersey (Mr. RODINO), are there, but there are very peculiar problems that we have in the inequities that go further into the language that the gentleman from Texas has.

Part of his language says that a person will not be allowed to receive benefits from Legal Services Corporation unless the residence of the alien is authorized by the Attorney General. It does not go any further than that. "Unless authorized by the Attorney General" would include a category of parolees which are all of the Cuban and Haitian people who have entered into this country under the Cuban and Haitian immigrant category.

It would include the many, many people the Attorney General paroled because he is not detaining them while awaiting exclusion hearings. I have great objection to that category being included, in addition to some of the others being excluded.

I have before the desk a substitute amendment, and I would like to offer that substitute at this time.

The CHAIRMAN. The gentleman has been recognized under time controlled by the gentleman from New Jersey.

Mr. RODINO. I yield to the gentleman for purposes of debate only, and I think the gentleman can offer his amendment on his own time.

AMENDMENT OFFERED BY MR. McCOLLUM AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. KAZEN

Mr. McCOLLUM. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. McCOLLUM as a substitute for the amendment offered by Mr. KAZEN: Strike the text of the amendment and insert in lieu thereof the following:

Page 11, line 5, insert "(a)" after "Sec. 11."

Page 12, strike out lines 10 through 16 and insert in lieu thereof the following:

"(11) to provide legal assistance for or on behalf of any alien unless the alien is a resident of the United States and is—

"(A) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15), (20));

"(B) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of 21 years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act and such application has not been rejected;

"(C) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions); or who has been granted asylum by the Attorney General under such Act; or

"(D) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)), or

Page 12, after line 19, insert the following new subsection:

(b) An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of section 1007(b)(11) of the Legal Services Corporation Act, to be an alien described in subparagraph (C) of such section.

Mr. McCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Under prior agreement, by unanimous consent, the gentleman from Florida (Mr. McCOLLUM) is allocated 15 minutes in support of his amendment.

Mr. McCOLLUM. Mr. Chairman, what this substitute amendment does that the amendment of the gentleman from Texas (Mr. KAZEN) does not do is to itemize those aliens that are eligible or would be eligible under the Legal Services Corporation Act: We have had a long history in this country of debate covering several years now under food stamps, medicare, and under aid to dependent children as to terminology that would exclude or not exclude certain categories of illegal aliens. The present language in the law reads that anyone who is known to be an illegal alien is not entitled to assistance. But that is a very vague and ambiguous terminology. Much like under color of law it is vague and ambiguous.

We have had varying interpretations that would virtually allow anyone to be able to receive benefits and assistance who is in this country. "Known to be an illegal alien" as indicated in the debate a few minutes ago on the primary amendment offered by the gentleman from Texas (Mr. KAZEN) has been interpreted by many legal counsel to mean only someone in this country who has been adjudicated to be excludable, or has been adjudicated to be subject to deportation. If anyone has not been so adjudicated, that person would be entitled to legal services.

So the act itself and the present bill is absolutely unacceptable to those of

us who believe the millions of illegal aliens in this country who are not paying taxes who are coming to this country getting benefits from us illegally, should be excluded and should be deterred from doing that.

What my amendment does is to delineate those in fact who would be eligible with an A, B, C, 1, 2, 3 category. Those people who would be eligible who are aliens in addition to our citizens would be those who are here under the Immigration and Nationality Act who have been granted status of permanent residence for immigration purposes. That is a great many people. I also include those who are here who are spouses, who are children, or who are parents of citizens of this country who are seeking the status of permanent residence to become citizens, and who under the priorities of our present law would virtually automatically become residents of this country and citizens in due course.

I believe they should have the category of assistance provided under this substitute amendment.

The next category that is included in my substitute is those people whom the Attorney General has granted asylum to and those people who are residents under the Refugee Assistance Act. They are all included. Also included are those whom the Attorney General has withheld deportation on, those people whom he has chosen not to deport because of fear of persecution for racial or religious or political reasons in the countries to which they would go.

What my amendment excludes are those people who are in fact in this country illegally, those whom they gentleman from Texas (Mr. KAZEN) wants to exclude and prohibit from getting services. The category that he overlooks that I think really is a travesty and is unacceptable is those people who are paroled by the Attorney General, particularly the Cubans and the Haitians, those from Colombia, Ecuador, and other countries who come into this country and then are let out of detention pending hearings on exclusion. Those people under the present law, those people under the amendment offered by the gentleman from Texas (Mr. KAZEN) who are paroled—and the Attorney General is doing that literally in the thousands right now and has been doing it—would be entitled to legal services unless my substitute is adopted.

We have 1,500 to 2,000 Haitians entering this country, and Cubans still, too, and Ecuadorians and Colombians, into the State of Florida each month at the present time. I would submit to my colleagues that my substitute needs to be adopted if we are going to be fair and exclude not only those who are subject to being deported but also those who are subject to being excluded under exclusion proceedings.

Let us make the illegal alien immigration procedure equitable and fair.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. At this time I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

Mr. Chairman, I rise in enthusiastic support of the substitute amendment being offered by my colleague, the gentleman from Florida (Mr. McCOLLUM), and I commend him for it.

I think in order to really see the subtlety of the question, it is necessary for us to for one moment examine the problems we have in south Florida. We have a population that has swollen tremendously, without any notice, without any preparation, and without any planning on the part of the State of Florida. Within the short time that the Mariel boatlift went on, we found 125,000 added to the population of south Florida, 90,000 of which I believe are still permanent residents within Dade County. We have recorded some 28,000 Haitians who have come into south Florida within very recent years, and that is only estimated to scratch the surface.

As a result of what has happened, we have found that the courts that are working on the deportation exclusion proceedings are virtually clogged and cannot operate efficiently at all.

I think we have then to look at what effect this is having upon south Florida. It has created a tremendous amount of unemployment, unrest, and dissatisfaction. South Florida has found itself with crime statistics which are unbelievable and other problems that are interfering with the tourist industry and other industries which are so important to south Florida.

I examined the crime situation in Dade County in the last year and have found that murder is up 64 percent; robbery is up 103 percent; aggravated assault is up 33 percent; motor vehicle theft is up 61 percent. It goes on and on and on.

What the Government is doing is paying for both sides. We are paying to give defense to keep these people here and paying to try to get these exclusion hearings to get this thing moved along, and this is in spite of what I consider to be a statute that is already on the books that would prohibit the extension of this authority by the Federal Government, and I quote from title 8, United States Code, section 1632, which provides that the right of counsel shall not be at the expense of the Federal Government.

I think what we have here is what the heart of everyone in this body goes out to—all of the poor people from the Third World countries. But this cannot be considered as a matter of heart. We have to let our heads rule over our hearts and know that we are here to represent the people of this country. There is no right to become a resident of the United States, and I

think this has to be decided on at this particular point.

So I would ask this House to represent the people of this country and pass meaningful legislation.

Mr. McCOLLUM. Mr. Chairman, at this time I would like to reserve the balance of my time, if I might at this particular moment.

□ 1445

The CHAIRMAN. The gentleman from Florida (Mr. McCOLLUM) has 8 minutes remaining.

Does the gentleman from New Jersey (Mr. RODINO) rise in opposition to the substitute?

Mr. RODINO. Mr. Chairman, I rise in opposition.

The CHAIRMAN. Under prior agreement, the gentleman is allocated 15 minutes in opposition.

Mr. RODINO. I would like to address the Chair as to the status insofar as the time that I had which I reserved on the Kazen amendment.

The CHAIRMAN. On the Kazen amendment, the gentleman has 3 minutes remaining, and on this substitute, the gentleman, of course, has 15 minutes allocated.

Mr. RODINO. I thank the Chairman.

I yield 3 minutes to the gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Chairman, I rise in opposition to the proposed amendment. This provision, if adopted, would undercut one of the most fundamental principles of our democratic system—that all persons, and especially those without economic or political power, are entitled to access to our judicial and administrative systems to seek the protection of our laws. It is difficult to imagine a class of persons in this society more powerless than impoverished aliens, whether documented or undocumented. Aliens historically have been the victims of the harshest of discriminatory practices—the Chinese exclusion laws, the notorious Palmer raids, and the recent systematic violations of due process against Haitian and Salvadoran asylum applicants. Moreover, many are persons of color and are therefore doubly subjected to the prejudices and antagonisms that pervade many American communities. The integrity of our legal system, our international reputation, and indeed the very stability of many communities cannot tolerate either the reality or the perception that some members of society are inferior to others, and therefore, not deserving of full and equal protection against unlawful, unjust, and abusive practices.

The loss of Legal Services' representation in immigration proceedings could create an administrative nightmare. Immigration judges and the Justice Department agree that representation of aliens by Legal Services attorneys aids in assuring the fairness of immigration proceedings and assists in the efficient functioning of the admin-

istrative process. Both the Justice Department and the Commissioner of INS recognize that because of the complexity of our immigration laws it would be extremely difficult for Legal Services personnel to determine a client's immigration status as the proposed amendment would require. The Justice Department has stated that "determinations of status can only be made by immigration officers in the course of appropriate proceedings." To impose this function on Legal Services attorneys could lead to improper denials of service as well as being a costly administrative burden. Let me remind my colleagues that in the case of Salvadoran and Haitian asylum applicants, Legal Services attorneys are often the only attorneys allowed access to those persons wishing to claim asylum. If this amendment is adopted, as signatories to the U.N. protocol relating to refugees, the United States runs the risk of violating international treaty obligations if indigent persons, wishing to claim asylum, are denied due process of law in seeking to adjudicate their asylum claims.

The effective exclusion of an entire class of persons from our legal system can only breed disrespect for our laws and encourage illegal conduct. Because of their isolation and vulnerability to exploitation, aliens are more susceptible to unlawful employment practices, to refusals to comply with health and building codes, to negligent or inadequate medical care. U.S. citizens indirectly suffer these injustices in the resulting loss of job opportunities, lower wages, unsafe neighborhoods, and spread of disease. Even more important, U.S. citizens suffer from the blatant abuse of our laws and the creation of a class of persons who may impudently place themselves above the law, undermining our procedures for protecting the health, homes, and jobs of all persons.

This amendment is deceptively attractive to those who wish to discourage the unregulated flow of immigration to the United States, but it will in fact exacerbate the existing tensions and antagonisms within our communities, and take a great toll on U.S. citizens as well as immigrants and refugees. I urge my colleagues to reject this amendment.

Thank you.

Mr. RODINO. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. I thank the Chairman for yielding.

AMENDMENT OFFERED BY MR. FISH TO THE AMENDMENT OFFERED BY MR. McCOLLUM AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. KAZEN

Mr. FISH. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. FISH to the amendment offered by Mr. McCOLLUM as a substitute for the amendment offered by

Mr. KAZEN: In the matter proposed to be inserted in lieu of matter on page 12, lines 10 through 16—

(1) strike out "or" at the end of subparagraph (C),

(2) strike out " , or" at the end of subparagraph (D) and insert in lieu thereof " ; or", and

(3) insert the following new matter after subparagraph (D):

"(E) an alien who is present in the United States under color of law; or

Mr. FISH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

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

Mr. FISH. Mr. Chairman, my amendment simply adds a new section (E) to the pending substitute. Section (E) reads "an alien who is present in the United States under color of law * * *".

Mr. Chairman, my amendment is designed to insure that certain categories of aliens who are legally in the United States can continue to avail themselves of Legal Services assistance. In that respect, it meets the criteria of the gentleman from Texas (Mr. KAZEN) in that undocumented aliens are not included.

Let me stress that point: Undocumented aliens are not the subject of this amendment any more than they are the subject of the substitute offered by the gentleman from Florida (Mr. McCOLLUM).

Color of law requires documentation and, hence, excludes surreptitious entrants unknown to the Immigration and Naturalization Service.

The amendment offered by the gentleman from Florida (Mr. McCOLLUM) seeks to limit Legal Services Corporation representation to a very few classes of aliens: permanent resident, immediate relatives of U.S. citizens, refugees, and those whose deportation is withheld because of a fear of persecution should they be returned to their homeland.

While I can appreciate the concern of the gentleman from Florida (Mr. McCOLLUM) and certainly understand his desire to specifically set forth in the law categories of aliens eligible for assistance, I would like to point out to the Members the pitfalls that I see in this approach.

First, I believe that a rigid listing of eligible aliens may serve to preclude legal aid for many who should be entitled to it. I will enumerate those shortly.

Because of the many gray areas in our immigration laws, there will be difficulty in attempting to enumerate eligible classes of aliens. Only color of law language is broad enough to insure coverage to all documented aliens.

The Immigration and Nationality Act provides a great deal of discretion to the Attorney General and to the Commissioner of the Immigration and Naturalization Service. If they ever exercise that discretion to withhold or indefinitely stay deportation of an alien, I believe that such an alien is entitled to legal assistance, notwithstanding the fact that he is not a permanent resident alien.

Who would my amendment cover? It would cover aliens paroled from outside the United States, a class not covered, not enumerated by the amendment offered by the gentleman from Florida (Mr. McCOLLUM). Aliens paroled from outside the United States may come here for humanitarian reasons, reasons in the best interests of the U.S. Government, medical reasons, or to be witnesses at a proceeding.

This is a function of parole that would not be covered in the pending substitute.

Second, the substitute offered by the gentleman from Florida (Mr. McCOLLUM) would not cover those aliens who have received assurances from the Immigration Service that they will not be deported from the United States. This is a very common practice. When an alien has filed a petition—simply because it takes months for the petition to be acted on—the Immigration Service will give assurances to the petitioner that they will not be deported. This would include all the beneficiaries of private bills introduced by Members of Congress; it would include fiances of American citizens; every beneficiary of any kind of petition that is pending in the thousands and tens of thousands by aliens who otherwise would be subject to deportation.

When the Service knows that eventually these petitions will be approved, they have a common practice of simply giving an assurance that deportation will not occur. This is a good system of dealing, with some humanity, to very real and personal problems.

My language provides, I believe, the necessary degree of flexibility which is needed in dealing with the technicalities and complexities relating to ones' status under the act.

Mr. Chairman, for days here this week we have considered proposals to circumscribe the activities of attorneys working for the Legal Services Corporation. For the first time today we are now facing a proposal to drastically reduce by numbers in the millions the eligible recipients for such aid.

What would my amendment, by simply adding "color of law" accomplish? It would put back the nonimmigrant class that are totally removed by the pending substitute, H-2 workers, foreign students, also all visitors for business or pleasure; but those are not the people we are concerned about who come here with money and would never turn to Legal Services.

The CHAIRMAN. The time of the gentleman from New York (Mr. FISH) has expired.

Mr. RODINO. Mr. Chairman, how much time do I have left?

The CHAIRMAN. The gentleman from New Jersey (Mr. RODINO) has 7 minutes remaining on the McCollum amendment and 3 minutes remaining on the Kazen amendment.

Mr. RODINO. There is no objection, is there, Mr. Chairman, to my combining the time so that I have 10 minutes and use it whatever way I wish?

The CHAIRMAN. The Chair does not object.

Mr. RODINO. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. I thank the gentleman very much.

I think there is one other point that I want to make perfectly clear to the members of the committee so that we know what we are doing: that my amendment does not enlarge on the number of eligible clients. The categories that I restore through the language "color of law" are eligible clients of Legal Services today.

There is ample precedent for the language to be found in legislation and regulations dealing with AFDC, SSI, medicaid.

Mr. Chairman, Tuesday, during debate on Legal Services, many speakers stressed the issue of equal justice under law. I maintain that today we are coming back to that issue. The issue again is access to justice, access to our courts. Due process and equal protection guarantees of our Constitution protect persons, not just citizens; and the noncitizens in droves ruled out by the substitute of the gentleman from Florida pay taxes, are subject to military service, and are themselves liable for violations of civil and criminal laws of the United States and, as such, they too should be afforded equal protection of the law.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, I yield 3 minutes to the chairman of the subcommittee, the gentleman from Kentucky (Mr. MAZZOLI).

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

Mr. MAZZOLI. Mr. Chairman, with some reluctance I take the floor, because I wish we were not on this subject today. It is a very difficult one and it is obviously one that vexes each one of us. The legal implications are murky.

Let me start by saying that I support the amendment offered by the gentleman from New York (Mr. FISH) adding "color of law" to the amendment offered by the gentleman from Florida (Mr. McCOLLUM).

I believe that the term "color of law" would, if the information supplied to me is correct, allow the cover-

age for services by the Legal Services Corporation to be provided to nonimmigrants, Cuban and Haitian entrants, those who apply for asylum, those who have had their departure extended, and cases where the Immigration and Naturalization Service has given assurances that it would exercise its discretion not to enforce a departure.

There is also another reason I support the amendment of the gentleman from New York (Mr. FISH) which has not been touched upon today in the debate.

As chairman of the Immigration Subcommittee, it is my hope—and I would suggest that it is the hope of all members of my subcommittee—that we do have an opportunity in this Congress to look at the entire subject of immigration and naturalization law for the purpose of reforming it. We are off to a good start, and I would say that the gentleman from Florida (Mr. McCOLLUM), as author of one of the amendments before us, is a most diligent, effective, and productive member of our subcommittee. Also, the gentleman from Texas (Mr. SAM B. HALL, JR.) who is on the floor, and is on our subcommittee, is very active. We have begun very well.

We have before us the report of the Select Commission on Immigration and Refugee Policy. Soon, I hope, we will have before us the views of the administration, based upon the task force report prepared by the Attorney General.

When we study the entire range of this subject, then we will have an opportunity to weave into it this question of whether or not certain legal services ought to be made available to certain categories of noncitizens.

I think if we act in advance of looking at the subject in totality, we may well make more difficult, if not make impossible, the task of passing a comprehensive piece of legislation.

We have not only before us the argument that the gentleman from New York (Mr. FISH) has made, based on the point which is certainly extraordinarily important—and that is whether or not people ought to have access to the legal system—we also have before us a very practical problem, and that is unless we are very cautious in moving forward piecemeal, we may find ourselves in a trap where we cannot look at the immigration law totally. I would, therefore, urge support of the amendment offered by the gentleman from New York (Mr. FISH) and urge opposition to the other amendments before the Committee of the Whole.

□ 1500

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. I thank the gentleman for yielding.

One thing that disturbed me about the amendment of the gentleman from Florida, and appears to me to be cured by the amendment that has been offered by the gentleman from New York (Mr. FISH), was that it would exclude the contract migrant workers who are bought in from places like Haiti totally legally.

It seems to me to have them here legally, working here and deprive them of access to our court system while they are here is totally improper. Therefore, I would be inclined very much to support the amendment offered by the gentleman from New York (Mr. FISH).

Mr. RODINO. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. I thank the gentleman for yielding.

I am not going to get into the legal terms because I think that was covered by my colleague from New York (Mr. FISH) and by the chairman of the committee.

But I would like to talk about some of the quotes that were made on this floor, by my two colleagues from Florida. I would hope that both of these gentlemen would look at the true picture, they speak of crime in south Miami, which has very little to do with this bill. And they talk about the millions who use legal aid.

Any person who would be listening to this debate would think that is all Legal Aid in doing, taking care of illegal aliens.

Well, the fact of the matter is that many of these people who are here illegally, the last place they want to go to is to any sort of forum that is part of the U.S. Government. I think that that is an important point because during the period of time when I, as chairman of the Subcommittee on Census and Population, tried my darnedest to get everybody counted, it was impossible.

So I would like both sides of the aisle to understand that they are not—there may be exceptions, there will be one or two cases here or there—but overall the overwhelming majority of these people stay away from Legal Aid.

It was stated that illegals do not pay taxes, I would like the Chair to know if there is any group in this country who are paying taxes and not getting the services, are the illegals, they are afraid to file their W-2 forms. They are afraid to submit anything in writing to the U.S. Government, many of these people who are here illegally, fail to ask for a refund of their taxes, which I believe they are entitled to.

Then the third part, how does a person determine when they walk into a legal aid office in the city of New York who is a citizen, who is not a citizen?

If I walked into one of these offices, and speak in Spanish such as, —Quien

me puede ayuda, yo no soy ciudadano? (who can help me, I am not a citizen?) the point that I am trying to make is that many of the lawyers are not fluent in Spanish.

So that the question that we are addressing is unworkable in many instances.

The person at the other side of the desk, would not understand enough Spanish to truly understand the need of the person seeking assistance.

The CHAIRMAN. The time of the gentleman from New York (Mr. GARCIA) has expired.

The Chair will advise that the gentleman from Texas (Mr. KAZEN) has 2 minutes remaining.

The gentleman from New Jersey (Mr. RODINO) has 2 minutes remaining.

The gentleman from Florida (Mr. McCOLLUM) has a total of 8 minutes remaining.

Mr. RODINO. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, like many other Members, I have tried very hard to listen to the debate. But I must say that I have come to the conclusion that the Members would be well advised to follow the advice of the chairman of the Subcommittee on Immigration, Refugees, and International Law, who has given a great deal of his time.

The chairman of the full committee, not too long ago before he assumed the chairmanship, was the chairman of the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary and then the ranking minority member, the gentleman from New York (Mr. FISH), I think, made a good case for all of us to support his amendment.

I would just hope that the Members would support the Fish amendment which I think really delineates and defines the scope about which all of us are concerned.

Mr. RODINO. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. McCOLLUM).

Mr. McCOLLUM. Mr. Chairman, I think the unfortunate thing that has occurred is that the gentleman from New York has placed before us something more vague and ambiguous than the law presently existing. He has said that anyone who is under color of law will be entitled to legal services. Anyone under color of law was determined by this body in 1977 in the debate over the Food Stamp Act to be too vague and too ambiguous to be in the law.

There had been that terminology used in the Food Stamp Act previous to that and there had been a number of court decisions rendering that virtually useless in determining illegal aliens.

It is my opinion that under this particular provision, if my substitute is amended by the effort of the gentleman from New York, there will be many illegal aliens besides those who I am concerned about in Florida who will be allowed to have legal services and there will be many ways in the court system to get around and to skirt the problem.

In 1977 in the Food Stamp Act—the law I traced and tracked when I drafted my substitute—visitors were excluded, foreign students were excluded from food stamps, many other people who were called nonimmigrant aliens were excluded from the right to receive benefits in this country because they were not citizens.

There was a very logical pattern for that as there is in this case when we talk about any service, legal services, food stamps, whatever it may be. That pattern is simply that these folks are here with no intent to remain permanently and they should not be provided with the services and the benefits that encourage them to stay here. They should have their own services if they come to this country, if they are visitors, if they are diplomats, or employes of diplomats or foreign students or whomever.

It is my judgment and the judgment of those supporting the McCollum substitute that the spirit of what happened in 1977 in the Food Stamp Act is embodied and should be followed by defeating the amendment of the gentleman from New York to my substitute.

Further, I would point out that there is no constitutional right declared by the Supreme Court for an individual to have civil law protection. Whatever we do under the Legal Services Corporation Act is strictly because we wish to do it in this body.

Constitutional rights are in the criminal law area only. We have an absolute right in this body to restrict whatever aliens we wish to restrict from receiving assistance.

There is an inherent unfairness in the amendment by the gentleman from New York to those who are involved in having to deal with aliens who are here illegally and who fall into the category of those seeking to be not deported, but those who the Immigration and Naturalization Service is seeking to exclude.

Now, there are two different types of illegal aliens: Those who are to be deported and those who are to be excluded. Those to be deported are the vast millions in this country who are here illegally who may not have been identified yet, but who are picked up by the Immigration and Naturalization Service once they are in the country. Those who are picked up by the Immigration and Naturalization Service when they enter this country are either detained or they are parolled subject to exclusion hearing.

My substitute amendment which would be defeated by the amendment

of the gentleman from New York would simply allow for fairness to be put into this so that those who are parolled by the Attorney General awaiting an exclusion hearing would be treated the same way as those who are illegally here and are picked up for deporting. They are both in the same category. Neither one should be here. Their presence should not be encouraged and I seek fairness in the defeat of the amendment offered by the gentleman from New York.

Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I do not mean to even take a minute. I simply want to ask a question.

Is it true as the gentleman from Michigan (Mr. SAWYER) I argued, that contract workers who come in to work as migrants on farms would not be covered under the bill and would not be eligible?

Mr. McCOLLUM. It is true that contract workers under the H-2 programs, temporary workers from foreign countries, would not be eligible for legal assistance under my substitute. However, it is not true that migrant workers would not be.

Most of our migrant workers in this country are not H-2 workers, they are a very small fraction. H-2 workers are nonimmigrant aliens, along with a list that runs sometimes double A through L that includes foreign government officials, employees of these foreign government officials, visitors for business or pleasure, aliens in transit through the United States, aliens in transit to United Nations headquarters, transients without visas, crewmen remaining with vessels or aircraft, crewmen discharged from vessels or aircraft, treaty traders, students and their families, representatives of international organizations, employees of G-1, G-2, G-3, and G-4 families, temporary workers which we are talking about right there, and also includes intracompany transfers, et cetera.

There is a whole laundry list of people who do not pay taxes in this country and who, in my judgment and the judgment of those supporting the substitute, should not be entitled to services just as they were not entitled to Food Stamp Act provisions and were excluded from that.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. I thank the gentleman for yielding.

I rise in support of the gentleman's amendment. I do so because I think it is time to clarify affirmatively the nature and the people who will receive the services of this Corporation.

Now we are not talking solely about representation before the administrative processes.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield for a clarification.

Mr. FASCELL. I yield to the gentleman from Florida.

Mr. McCOLLUM. Is the gentleman rising in support of the substitute or in support of the amendment offered by the gentleman from New York?

Mr. FASCELL. I am rising in support of the McCollum substitute. That is what I said, but I want to make it explicitly clear that I am supporting the McCollum substitute. I do so because, as I started to say, we are not talking about simply the representation of individuals in the administrative or judicial processes affecting their right to stay in this country. We are talking about all of the other services.

Now the problem that I have and the reason I rise in support of this amendment in its affirmative approach to the delineation, is this: One group, for example, of people, and I do not know how they got to this country and I cannot tell where they are domiciled, resident, documented or undocumented, but they are here, 10,000 of them from one country.

So they all go down and file whatever form it is that says, "I do hereby request political asylum."

No determination is made at that point, but that immediately triggers a whole series of administrative processes. After that is over, it does trigger, if the individual cares to, a whole series of judicial processes.

The question will be that subsequent to all of that and during that time an ultimate decision may be made that that person has no right to be here.

Are we then going to deny services because right now those 10,000 people are getting some help, as are another group of 10,000, as are another group of 10,000, and the lawful citizens can hardly get into the offices of the Legal Services to get the services that we are trying to provide them?

The CHAIRMAN. The Chair will advise that the gentleman from Texas (Mr. KAZEN) has 2 minutes remaining.

The gentleman from Florida (Mr. McCOLLUM) has 1 minute remaining.

The gentleman from New Jersey (Mr. ROBINO) has 1 minute remaining.

The gentleman from New Jersey (Mr. ROBINO) has the right to conclude debate.

The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, we have heard all of the arguments set forth. The substitute offered by the gentleman from Florida has a shopping list that he says should not receive services.

The gentleman from New Jersey says that shopping list should receive services.

My amendment says nobody who is not here legally should receive services.

My colleagues have their choice. Mine is a catchall amendment. Let me ask the gentleman from Kentucky if,

under the provisions of his bill, illegal aliens are entitled to legal services.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I would yield to the chairman of the subcommittee for a final answer.

Mr. KAZEN. All right, because I have only 1 minute.

Mr. MAZZOLI. Then I would say that it would. The services would now be provided to a person whom one would call an illegal alien.

Mr. KAZEN. Does the chairman agree with that? Do I read section 11 that way, that no known alien shall be serviced?

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. That is correct and that is also present law under the appropriations.

Mr. KAZEN. Then it goes further in the next section and says they have to document their presence.

Now in the whole bill are illegal aliens allowed to receive services?

Mr. KASTENMEIER. Not if they are know to be here in an illegal status.

Mr. KAZEN. Now for the sake of legislative history, does every person who comes to a Legal Services Corporation lawyer have to show documentation that he is in this country legally?

Mr. KASTENMEIER. That person will now, I answer the gentleman, because of the requirements of section 12 requiring that documentation of eligibility.

Mr. KAZEN. So, therefore, taking the gentleman's bill as a whole, forgetting the amendments on the floor today, taking the gentleman's bill as a whole if none of the amendments pass, will the provisions of the bill, if it is passes, as the gentleman has it here, will the provisions of the bill allow illegal aliens to have service?

Mr. KASTENMEIER. The answer has to be "no" to the gentleman's question.

□ 1515

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. McCOLLUM).

Mr. McCOLLUM. Mr. Chairman, the main point of this whole debate is that the law at the present time is vague and ambiguous, and will allow illegal aliens to receive the services of this Corporation if an amendment is not adopted. It is my judgment that the McCollum substitute, which is offered and is on the floor subject to the amendment offered by the gentleman from New York (Mr. FISH) explicitly and in the best form of any proposal today, without any trappings, will in fact do what this body wants to do; that is, exclude illegal aliens from receiving services of the Corporation.

If we go along with the amendment of the gentleman from New York, we are going to allow legal services for many illegal aliens. It will not be fair or appropriate to those who are in the States, where there are those waiting in parole status that really should be treated the same as other illegal aliens. It is my sincere request in urging that those Members of the House considering this matter follow the Food Stamp Act of 1977 and the efforts that I have made very diligently to shape a law that is restrictive and yet fair, and vote against the amendment of the gentleman from New York and then vote for the McCollum substitute.

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

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. RODINO).

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

Mr. RODINO. Mr. Chairman, I support the amendment offered by the gentleman from New York. I believe that when he uses the term "under color of law" he is using a term that is well understood under our immigration law. Therefore, he does do what the gentleman from Wisconsin has already stated, and that is to preclude legal services for individuals who are known to be illegal aliens. At the same time it preserves eligibility for legal aid for those people who are legally here under "color of law."

Mr. Chairman, I yield the balance of my time to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I thank my chairman for yielding to me. I am very sympathetic with what really is the underlying problem here, a problem unique in south Florida. We are asked to make a drastic reduction of eligible recipients to meet this problem.

A tradeoff of 40,000 to 50,000 Haitians against 10 million nonimmigrants I think is far too one sided in a deal for this House to adopt.

Second, there is no basic rationale to the categories that the gentleman has asked us to exclude.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York (Mr. FISH) to the amendment offered by the gentleman from Florida (Mr. McCOLLUM) as a substitute for the amendment offered by the gentleman from Texas (Mr. KAZEN).

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

Mr. FISH. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated. The Committee will resume its business.

RECORDED VOTE

The pending business is the demand of the gentleman from New York (Mr. FISH) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 141, noes 262, not voting 28, as follows:

[Roll No. 88]

AYES—141

Anderson	Frank	Pease
Ashbrook	Garcia	Peyser
Aspin	Gejdenson	Pickle
Barnes	Gephardt	Pritchard
Bedell	Gilman	Pursell
Beilenson	Glickman	Rahall
Benjamin	Gonzalez	Railsback
Bingham	Gradison	Rangel
Blanchard	Green	Ratchford
Boland	Guarini	Reuss
Bonior	Hamilton	Richmond
Brodhead	Harkin	Rodino
Brown (CA)	Heckler	Rosenthal
Burton, John	Heftel	Rostenkowski
Burton, Phillip	Hertel	Roth
Chisholm	Hollenbeck	Roybal
Clay	Howard	Sabo
Collins (IL)	Hoyer	Sawyer
Conte	Hyde	Scheuer
Coughlin	Jacobs	Schneider
Coyne, William	Jeffords	Schroeder
Crockett	Kastenmeier	Schumer
Danielson	Kildee	Seiberling
Daschle	Kogovsek	Sensenbrenner
de la Garza	LaFalce	Shamansky
Dellums	Leach	Shannon
Dixon	Leland	Simon
Downey	Lowry	Smith (NJ)
Dunn	Markey	Solarz
Dwyer	Marks	St Germain
Dymally	Matsui	Stark
Early	Mavroules	Stokes
Edgar	Mazzoli	Studds
Edwards (AL)	McHugh	Swift
Edwards (CA)	McKinney	Synar
Erlenborn	Mikulski	Vento
Ertel	Miller (CA)	Volkmer
Evans (DE)	Mineta	Walgren
Evans (IN)	Mitchell (MD)	Washington
Fazio	Moakley	Waxman
Fenwick	Nowak	Weaver
Ferraro	Oakar	Weiss
Fish	Oberstar	Williams (MT)
Foglietta	Obey	Wirth
Foley	Ottinger	Wolpe
Ford (MI)	Panetta	Yates
Ford (TN)	Patterson	Zablocki

NOES—262

Akaka	Benedict	Broyhill
Albosta	Bennett	Burgener
Alexander	Bereuter	Butler
Andrews	Bethune	Byron
Annunzio	Bevill	Campbell
Anthony	Biaggi	Carman
Applegate	Billey	Carney
Archer	Boggs	Chappell
Atkinson	Bonker	Cheney
AuCoin	Bouquard	Clausen
Bafalis	Bowen	Clinger
Bailey (MO)	Brinkley	Coats
Bailey (PA)	Brooks	Coelho
Barnard	Broomfield	Coleman
Beard	Brown (CO)	Collins (TX)

Conable	Hopkins	Pepper
Corcoran	Horton	Perkins
Courter	Hubbard	Petri
Coyne, James	Huckaby	Porter
Craig	Hughes	Price
Crane, Daniel	Hunter	Quillen
Crane, Phillip	Hutto	Regula
D'Amours	Ireland	Rhodes
Daniel, Dan	Jeffries	Rinaldo
Daniel, R. W.	Jenkins	Ritter
Dannemeyer	Johnston	Roberts (KS)
Daub	Jones (NC)	Roberts (SD)
Davis	Jones (OK)	Robinson
Deckard	Jones (TN)	Roe
DeNardis	Kazen	Roemer
Derrick	Kemp	Rogers
Derwinski	Kindness	Roukema
Dicks	Kramer	Russelot
Dingell	Lagomarsino	Rudd
Donnelly	Latta	Russo
Dorgan	Leath	Santini
Dornan	LeBoutillier	Schulze
Dreier	Lee	Sharp
Duncan	Lent	Shaw
Dyson	Levitas	Shelby
Eckart	Lewis	Shumway
Edwards (OK)	Loeffler	Shuster
Emerson	Long (LA)	Siljander
Emery	Long (MD)	Skeen
English	Lott	Smith (AL)
Erdahl	Lowery	Smith (IA)
Evans (GA)	Lujan	Smith (NE)
Evans (IA)	Lundine	Smith (OR)
Fary	Lungren	Snowe
Fascell	Madigan	Snyder
Fiedler	Marlenee	Solomon
Fields	Marriott	Spence
Findley	Martin (IL)	Stangeland
Fithian	Martin (NC)	Stanton
Flippo	Martin (NY)	Staton
Forsythe	Mattox	Stenholm
Fountain	McClory	Stratton
Fowler	McCloskey	Stump
Frost	McCullum	Tauke
Fuqua	McCurdy	Tauzin
Gaydos	McDade	Taylor
Gibbons	McDonald	Traxler
Gingrich	McEwen	Tribble
Ginn	McGrath	Udall
Goldwater	Mica	Vander Jagt
Goodling	Michel	Walker
Gore	Miller (OH)	Wampler
Gramm	Minish	Watkins
Gregg	Mitchell (NY)	Weber (MN)
Grisham	Montgomery	Weber (OH)
Gunderson	Moore	White
Hagedorn	Moorhead	Whitehurst
Hall (OH)	Morrison	Whitley
Hall, Ralph	Mottl	Whittaker
Hall, Sam	Murphy	Whitten
Hammer Schmidt	Murtha	Williams (OH)
Hance	Myers	Winn
Hansen (ID)	Napier	Wolf
Hansen (UT)	Natcher	Wortley
Hartnett	Neal	Wright
Hatcher	Nelligan	Wyden
Hefner	Nelson	Wylie
Hendon	Nichols	Yatron
Hightower	O'Brien	Young (AK)
Hiler	Parris	Young (FL)
Hillis	Pashayan	Young (MO)
Holland	Patman	
Holt	Paul	

NOT VOTING—28

Addabbo	Dougherty	Molinari
Badham	Florio	Mollohan
Bolling	Frenzel	Rose
Boner	Gray	Savage
Breaux	Hawkins	Skelton
Brown (OH)	Lantos	Thomas
Chappie	Lehman	Wilson
Conyers	Livingston	Zerferetti
Cotter	Luken	
Dickinson	Moffett	

The Clerk announced the following pairs:

On this vote:

Mr. Mollohan for, with Mr. Badham against.

Mr. Hawkins for, with Mr. Chappie against.

Mr. Moffett for, with Mr. Dickinson against.

Mr. Lehman for, with Mr. Livingston against.

Mr. Gray for, with Mr. Thomas against.

Ms. MIKULSKI, Messrs. MCKINNEY, MATSUI, FOLEY, VOLKMER, and GLICKMAN changed their votes from "no" to "aye."

Mr. GRAMM changed his vote from "aye" to "no."

So the amendment to the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1545

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. McCOLLUM) as a substitute for the amendment offered by the gentleman from Texas (Mr. KAZEN).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. KAZEN), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there additional amendments to section 11? If not, the Clerk will read.

The Clerk read as follows:

DOCUMENTATION OF ELIGIBILITY

SEC. 12. Section 1008 of the Legal Services Corporation Act (42 U.S.C. 2996g) is amended by adding at the end thereof the following new subsection:

"(f) The Corporation shall require each recipient to maintain documentation (1) demonstrating the eligibility of each person to whom such recipient provides legal assistance, and (2) of any activity referred to in subparagraph (A) or (B) of section 1007(a)(5) of this title. The Corporation shall periodically review such documentation, in a manner that protects confidential client information, to assure compliance with this subsection and shall include in each annual report prepared pursuant to subsection (c) of this section its findings with respect to such compliance."

AMENDMENT OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would inquire if the amendment has been printed in the RECORD for 2 legislative days.

Mr. GILMAN. The amendment has been printed.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. GILMAN: On page 13, after line 8, insert the following:

SEC. . The Legal Services Corporation Act (42 U.S.C. 2996 et seq.) is amended by redesignating sections 1013 and 1014 as sections 1014 and 1015, respectively, and by inserting after section 1012 the following new section:

"CIVIL ACTIONS

"SEC. 1013. (a) The Corporation may bring an action in the appropriate district court of the United States to compel the specific performance of any agreement between the Corporation and any recipient for the provision of legal services under this title.

"(b) The Corporation or the United States may bring an action in the appropriate district court of the United States for a temporary or permanent injunction or other appropriate relief for the purposes of compelling compliance by a recipient with the provisions of this title or with any rule, regulation, or guideline promulgated pursuant to this title.

"(c) A judgment or order in an action brought under this section shall not require the interruption of the provision of legal services to any eligible client in any action pending on the date of such decision or order, unless the court explicitly so states in such decision or order. If the court does explicitly so state, it shall attempt to make equitable arrangements for the provision of legal services to any eligible client affected thereby."

Mr. GILMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Chairman, before discussing the merits of my proposed amendment to the Legal Services Corporation Act Amendments (H.R. 3480), I would like to say just a few words about the bill in general and my past activities concerning the Legal Services Corporation. I also wish to express my appreciation to the members of the Subcommittee on Courts, Civil Liberties and the Administration of Justice, for their cooperation in our mutual efforts to strengthen and reform this measure.

Mr. Chairman, I support the concept of legal services to the indigent and while my constituents have encountered some difficulties with the performance of the Legal Services Corporation's grantee in my congressional district, the Mid-Hudson Legal Services, Inc., I am also aware that they have fulfilled a substantial role in providing access to the legal system for my region's indigent population.

There have been difficulties, indeed, at all levels of the Corporation and in many parts of the country, but I think that the appropriate response for this House would be to make the necessary corrections in the program while we have this opportunity before us. The President will, as we know, have a subsequent opportunity to appoint all 11 members of the LSC Board. Moreover, the personnel of the Corporation who are unwilling to carry out the wishes of the new Board can be replaced.

Many significant reforms have been made in this legislation by the Committee on the Judiciary: Provisions have been added limiting the local grantees' ability to receive attorneys' fees; providing standards enabling the awarding of attorneys fees against the Corporation if a local grantee acts improperly; providing for negotiation, in most instances, before the filing of any lawsuit; increasing the representation of the organized bar on local boards of directors, and the like. With these improvements, I believe that the new legislation deserves a chance to work.