Mr. CHABOT. Madam Speaker, I rise today to thank and congratulate Cincinnati State Technical and Community College for 50 years of service to the greater Cincinnati community.

I have been privileged to visit Cincinnati State many times, most recently the Evendale campus to see firsthand the opportunities they provide to so many students. With four campuses, small class sizes, and over 100 associate degree programs, Cincinnati State is truly an excellent college.

Perhaps most notably, Cincinnati State plays a critical role in developing our region's workforce. Through extensive co-op programs and relationships with the University of Cincinnati and 600 industry partners, Cincinnati State paves many career paths, especially for nontraditional students.

Finally, I thank Dr. Monica Posey for her dedication to making Cincinnati State an even greater asset to our community.

Congratulations to Cincinnati State on its 50th anniversary. We look forward to many more.

STAND UP FOR CONSUMERS BY SUPPORTING FAIR ACT

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Madam Speaker, every day, thousands of Americans unwittingly sign contracts for nursing homes, credit cards, and employment contracts that surrender their rights to their day in court before an impartial judge and jury.

Instead, buried in the fine print of the contract, they agree to rely on an arbitrator who doesn't have to follow the law or facts and will have every incentive to favor the special interests that could give them repeat business.

Typically, arbitration is not public. The Wells Fargo practice of opening unauthorized bank accounts would have undoubtedly been exposed and ended sooner if Wells Fargo hadn't enforced mandatory arbitration.

This is our chance to stand up for consumers, justice, and fairness. I urge my colleagues to support H.R. 1423, the FAIR Act.

ENSURE FREE AND FAIR TRADE

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

Mr. ALLEN. Madam Speaker, every day that Speaker PELOSI delays a vote on the United States-Mexico-Canada Agreement, American workers and their families are hurt. Right now, farmers, ranchers, and businesses in Georgia and across the country face unnecessary uncertainty.

This trade deal is vital to our economy, and passing USMCA would be a huge win for the American people. Canada and Mexico both serve as top markets for a number of our U.S. agricultural products.

In Georgia, 22,558 jobs depend on manufacturing exports to Canada and Mexico.

Passing this trade agreement would also strengthen our already vibrant economy. The USMCA can add another 176,000 new jobs and add $68.2 billion to GDP growth.

Let's ensure free and fair trade while granting our farmers, ranchers, and manufacturers the protections they deserve.

I urge my Democratic colleagues to end these partisan politics and pass USMCA or, at the very least, put the bill on the House floor for a vote.

CONGRATULATING DR. NEIL SHARKEY ON HIS RETIREMENT

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

Mr. THOMPSON of Pennsylvania. Madam Speaker, I rise today to recognize and congratulate a friend and educational leader, Dr. Neil Sharkey, vice president for research at Penn State University, upon his retirement.

For the last 22 years, Dr. Sharkey has managed, facilitated, and advanced the university's entire research portfolio to dig deeper and discover innovative solutions to society's most challenging questions.

Under Dr. Sharkey's leadership, Penn State's research expenditures reached an all-time high in 2017 and 2018, totaling $927 million. This investment in the university's research has helped fund important research projects in life sciences, cyber science, social science, cancer research, energy and the environment, and a variety of other interdisciplinary fields.

Before his position as vice president of research, Dr. Sharkey served as the associate dean for research and graduate education in the College of Health and Human Development, as well as a professor of kinesiology.

I always say we cannot make good decisions without good data. Dr. Sharkey has been a leader in this feat, and I wish him the best of luck as he embarks on his new endeavors.

ALLOW AMERICANS TO PURCHASE VEHICLES THAT FIT THEIR NEEDS

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

Mr. LAMALFA. Madam Speaker, I rise today to applaud the efforts of U.S. EPA Administrator Andrew Wheeler and Department of Transportation Secretary Elaine Chao with regard to the unreasonable automobile fuel mileage standards put upon consumers by a 2015 Obama-era rule.

In only 5 model years from now, all U.S. cars would have to average 55 miles per gallon under this current standard. Most people drive cars these days that are somewhere around 25 to 33 miles per gallon. They would be forced into very small cars that don't fit their family's needs.

What the administration is seeking to do is freeze this timeline at 37 miles per gallon until technology can catch up, et cetera, so people can choose to buy cars that fit their lives. Under the old rule and what the California Air Resources Board is trying to foist upon all 50 States in meeting the Obama rule, they will not have that choice anymore.

Unfortunately, a few scared automakers have sat down with CARB to try to cut a deal to fix the one they agreed to a few years ago with no real idea of how they would meet 55 miles per gallon with current technology and physics at the time. At this point, there are very few 55-mile-per-gallon vehicles to even choose from. Most people don't want to buy those cars because it doesn't fit their family, their life, what they want, and what they desire.

CARB is trying to foist that on all 50 States, and auto manufacturers will be herded toward it by desiring to make the same car type for all 50 States, not just California. This needs to be stopped, and we must draw the line here.

FORCED ARBITRATION INJUSTICE REPEAL ACT

GENERAL LEAVE

Mr. CICILLINE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and insert extraneous material on H.R. 1423, Forced Arbitration Injustice Repeal Act, or the FAIR Act.

The SPEAKER pro tempore (Mr. BLUMENAUER). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 558 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 1423.

The Chair appoints the gentlewoman from Illinois (Ms. UNDERWOOD) to preside over the Committee of the Whole.

□ 0912

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 consideration of the bill (H.R. 1423) to amend title 9 of the United States Code with respect to arbitration, with Ms. UNDERWOOD in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

General debate shall be confined to the bill and shall not exceed 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary.

The gentleman from Rhode Island (Mr. CICILLINE) and the gentleman from Georgia (Mr. COLLINS) each will control 30 minutes.

The Chair recognizes the gentleman from Rhode Island.

Mr. CICILLINE. Madam Chair, I yield myself such time as I may consume. Madam Chair, I rise in strong support of H.R. 1423, the Forced Arbitration Injustice Repeal Act, or the FAIR Act.

Buried deep within the fine print of everyday contracts, forced arbitration deprives American consumers and workers of their day in court when they attempt to hold corporations accountable for breaking the law. This private system lacks the procedural safeguards of our justice system. It is not subject to oversight, has no judge or jury, and is not bound by laws passed by Congress or the States, but it has become a requirement of everyday life. Consumers and workers must surrender their rights to corporations through forced arbitration clauses, which are unilaterally imposed by companies before disputes even arise.

When forced arbitration is combined with nondisclosure agreements, it effectively silences the victims of rampant corporate misconduct. This shameful, humiliating, and corrupt system has isolated and silenced people who are ultimately deprived of their right to hold wrongdoers accountable through their day in court.

Few instances of this silencing effect are as stark and disturbing as the experiences of victims of sexual harassment and assault, who are routinely exploited by forced arbitration.

Forced arbitration has also eroded the fundamental rights of our Nation's men and women in uniform, veterans, and their families. These brave Americans have sacrificed much in service to our country. They have fought to protect the fundamental idea that we are a Nation of laws and institutions that guarantee the rights to every American and that every American should have the freedom to enforce these rights meaningfully.

But for too long, arbitration has eroded these fundamental protections by forcing servicemembers' claims into a private system set up by corporations. The Military Coalition, which represents 5.5 million current and former servicemembers, The American Legion, and 29 other military service organizations, notes that forced arbitration has funneled the claims of servicemembers, veterans, and their families into ''a rigged, secretive system in which all the rules, including the choice of the arbitrator, are picked by the corporation.''

□ 0915

Let me give an example. Lieutenant Commander Kevin Ziober, who testified in support of the FAIR Act earlier this year, has served in the U.S. Navy Reserves since 2008, but in the fall of 2012, he was called into Active Duty for deployment to Afghanistan.

Kevin notified his employer and conveyed his desire to resume work upon his return, but after over 2 years with the company, on the last day of work, right before his deployment to Afghanistan, following a farewell party with a big cake with a symbol of the United States flag on it, he was fired by his employer for serving his country.

When he tried to hold his employer accountable for violating his rights under USERRA, his company forced his claim into arbitration, citing an arbitration clause in Kevin's employment contract that he was required to sign 6 months into his employment waiving his constitutional right to a jury trial.

This outrageous practice is nothing short of a corporate takeover of our Nation's system of laws, and the American people have had enough. The overwhelming majority of voters, including 83 percent of Democrats and 87 percent of Republicans, support ending forced arbitration. It is time to act.

H.R. 1423, the FAIR Act, does just that. This important legislation ends the use of forced arbitration in everyday consumer, employment, antitrust, and civil rights abuses. It is supported by a broad coalition of groups dedicated to advancing the rights of women, servicemembers, veterans, consumers, and hardworking Americans.

Madam Chair, I reserve the balance of my time.

Mr. COLLINS of Georgia. Madam Chair, I yield myself such time as I may consume.

I rise in opposition to the bill and will speak to that.

Arbitration—let's go back to some basics here—provides consumers a simpler, cheaper, faster path to justice than does the judicial system. That is what the evidence showed the last time the Judiciary Committee performed oversight of the arbitration system during the 111th Congress, and that is what the evidence showed earlier this term when we renewed oversight in the Subcommittee on Antitrust, Commercial and Administrative Law.

In fact, the evidence in favor of preserving access to arbitration has only increased over time. Companies are continuing to improve the fairness of arbitration agreements and have long been following improved arbitration protocols to help assure due process is given to claimants against them.

The market resolved problems in consumer credit arbitrations considered during the 110th and 111th Congresses. A string of new Supreme Court decisions has demonstrated the Court's confidence in the arbitration system.

Even the Consumer Financial Protection Bureau's 2015 study of arbitration highlighted problems consumers would face if they had no access to arbitration but, instead, had to rely on flawed judicial class actions. The study shows the rise of predispute, mandatory binding arbitration agreements in consumer settings did not come out of nowhere. It stems directly from the repeated abuses of class actions that have plagued the judicial system in recent decades.

That is not to say that the arbitration system is perfect, but the arbitration system is generally good and should be preserved.

Unfortunately, that is not what the forced injustice repeal act would do. Rather than preserve and strengthen arbitration, it would wipe it out for enormous numbers of consumer and employment disputes, as well as many civil rights and antitrust disputes.

What that would do is not end injustice, but it would actually promote it. Because what happens when everyday consumers and employees are denied rights to arbitrate, rights their contracts guarantee them? In far too many cases, it means Americans will be shut out of the justice system entirely.

If their claims are small enough for small claims court, there may be an option. In 46 States and the District of Columbia, however, small claims courts only take claims worth $10,000 or less; 30 of those jurisdictions limit it to $5,000 or less.

Millions of claimants with cases worth amounts not much more than those ceilings will never be able to pay the courtroom lawyers enough to take their cases to ordinary trial courts.

Maybe if the claimants could qualify as plaintiffs in a class action, they could join those actions. Millions more will not. And even those who do can expect to get nothing in return but a postcard telling them they have won a few dollars and cents on a coupon.

Meanwhile, class action plaintiffs' trial lawyers will reap multimillion-dollar shares in fees from the recoveries they dole out to plaintiff class members at mere pennies on the dollar.

If you ask me, it would be better to call this bill the forced class action injustice guarantee act today.

Rather than wipe out arbitration, we should consider ways to make it better; and, while we do that, we should do everything we can to reform the abuse of the class action system.

Senate Judiciary Chairman GRAHAM suggested that we ought to do just that at a Senate Judiciary Committee hearing on arbitration earlier this year, and he was exactly right. The worst result Congress could deliver to the American people would be to wipe out access to arbitration while leaving them no alternative but an unreformed judicial system.

Before I yield back, Madam Chair, this is something that is disturbing to me, because this is a bill that my gentleman friend just stated there is a list of horribles here, there is a list of horribles of abuse, sexual abuse, military.

All of these could have been addressed if we had sat down, as a Congress should do, as I told the chairman during the markup: Mr. Chairman, if we would have just sat down and talked about the issues facing us, we wouldn't be facing a veto threat from

anywhere, we wouldn't be facing a Senate that is not going to take this up, and we could have found a bill that would not have had to have a rule. It could have been on suspension. Because we could have found the ways to fix the arbitration system, make sure that there is access, and protect those who need protecting without putting a partisan bill on the floor that simply will take people out of the system instead of including them, but be very profitable for those who do class action lawsuits.

Let's be honest about what is happening here. We are taking people out of the system, not putting them in. We are not really protecting them; we are actually hurting them. And this is the issue that could have been fixed with a true working Congress, in a true working committee. We just don't have that right now, and that is sad. That makes us all the worse in doing this.

Madam Chair, I reserve the balance of my time.

Mr. CICILLINE. Madam Chair, I would just remind the gentleman that this is a bipartisan piece of legislation, and the most recent polling shows 87 percent of Republicans and 83 percent of Democrats support it. So it is broadly bipartisan all across the country. It is bipartisan in terms of its introduction and sponsorship. It is just not bipartisan in the Republican caucus, apparently.

Madam Chair, I yield 2 minutes to the gentleman from Georgia (Mr. JOHNSON). He is not only a distinguished Member; he is the lead sponsor and author of the FAIR Act.

Mr. JOHNSON of Georgia. Madam Chair, it is strange, because my friends on the other side of the aisle are not interested in working on anything together. They are only interested in giving tax cuts to the top 1 percent and the big corporations, and they are interested in privatizing everything. And a privatized justice system is the ultimate injustice, and that is what forced arbitration is all about.

The FAIR Act would restore justice to millions of Americans.

We are a country of justice and fair play. When people cheat, we take pride in holding them accountable before a jury in a court of law; but forced arbitration clauses hidden in the fine print deprive victims of their day in court before a jury of their peers.

Using forced arbitration, corporations force victims into secret proceedings where the deck is stacked against them. Predictably, the end result is the corporation wins, and the victim is deprived of justice.

And because the proceeding is secret, the public never learns what happened. We won't know which corporation tolerates a climate and a culture of sexual harassment of its employees or which corporation fraudulently overcharges its customers or which nursing home has a sordid history of mistreating its patients.

For too long, people have been tricked by complicated legal jargon hidden in take-it-or-leave-it contracts. People like Diana, from my home State of Georgia.

Diana, after 5 years at Kay Jewelers, learned she was making less than her more recently hired, less experienced male colleagues; but because of her forced arbitration clause she was tricked into signing, she couldn't get the backpay that she deserved. She is one of millions of victims who have been denied justice because they unwittingly signed away their right to take a wrongdoer to court.

It is not fair and it is not right. If you believe in consumer rights, then you should support the FAIR Act.

The CHAIR. The time of the gentleman has expired.

Mr. CICILLINE. Madam Chair, I yield an addition 30 seconds to the gentleman.

Mr. JOHNSON of Georgia. Madam Chair, if you believe in consumer rights, then you should support the FAIR Act; and if you believe in justice and the rule of law, then you should vote to pass the FAIR Act.

Madam Chair, I want to thank my colleagues who have worked so hard to support this bill—Congressman CARTWRIGHT, Congressman CICILLINE, Congressman RASKIN, Congresswoman JAYAPAL, and, last but not least, Chairman NADLER—for their work in getting this bill to the brink of passage today.

Mr. COLLINS of Georgia. Madam Chair, yes, it is me, and I do speak truth here, and I will acknowledge there is one Republican cosponsor of this bill. It is bipartisan in that regard. However, it could have had 100 or more Republican cosponsors if we would have actually done legislation.

Instead, my gentle friend from Georgia just gets up and repeats trite statements about what Republicans want to do and what Republicans don't want to do. That is the problem we have right here. That is the problem, why we don't have legislation that actually works and will actually get signed and put into law.

Remember, a bill that only comes through one part and cannot get through to get a President's signature is simply a political statement. That is what we are doing today.

Madam Chair, I yield the balance of my time to the gentleman from North Dakota (Mr. ARMSTRONG) so he may manage the remainder of the time.

Mr. ARMSTRONG. Madam Chair, I reserve the balance of my time.

Mr. CICILLINE. Madam Chair, I yield 1 minute to the gentlewoman from Georgia (Mrs. MCBATH), who has been a fierce advocate for workers and consumers.

Mrs. MCBATH. Madam Chair, I rise in support of the FAIR Act, a bipartisan bill introduced by my friend and fellow Georgian, Congressman JOHNSON.

I am proud to cosponsor this bill which will help small businesses by ending the use of forced arbitration. These tiny clauses hidden in the fine print are used to trick rising entrepreneurs in their dealings with sophisticated conglomerates.

Small businesses need to sign contracts for phone plans, credit cards, and rental cars, but too often, lurking in the fine print, a few words can cost them their constitutional right to their day in court. With this bill, our entrepreneurs can focus on growing their businesses and investing in our communities.

Madam Chair, I ask my colleagues to join me in supporting this bill.

Mr. ARMSTRONG. Madam Chair, I want to quote Justice Breyer in a Supreme Court opinion:

> The typical consumer who has only a small damage claim, who seeks, say, the value of only a defective refrigerator or television set would be left without any remedy but a court remedy, the costs and delays of which could eat up the value of an eventual small recovery.

Madam Chair, I yield 3 minutes to the gentleman from California (Mr. MCCLINTOCK), my friend.

Mr. MCCLINTOCK. Madam Chair, this bill purports to assert a very important constitutional right: the right to trial by jury in civil actions. But it does this by denying another very important constitutional right: the freedom of unimpaired contract, the right of two parties to agree to exchange goods and services according to their own best judgment.

Now, because of the excesses and expenses and uncertainties that have plagued our civil courts, many consumers and producers and many employees and employers find it mutually advantageous to waive their right to civil jury trials in any disputes between them in favor of simpler, cheaper, and faster arbitration.

Now, the proponents tell us that it is an uneven playing field and this requirement is often imposed in nonnegotiable, take-it-or-leave-it propositions. First of all, this isn't exactly true. Every employee and every consumer, no matter how weak and vulnerable, has an absolute defense against a bad agreement: It is the word, ''no.'' No, the pay isn't good enough; no, the price is too high; no, I don't like the terms, and I am taking my business elsewhere.

Even when there aren't good alternatives, the fact is that every provision in a contract is a take-it-or-leave-it proposition if one side or the other insists on it. The question for each side is whether the totality of the contract is beneficial to them or not. It is my right to make that decision for myself without somebody in government making it for me.

Now, remember, an arbitration provision binds both sides. For example, I am not a lawyer. I can't afford to hire one to take a big company to court. For me, binding arbitration helps level the playing field by providing an inexpensive alternative that the company must abide by. This bill takes that protection away from me.

According to the U.S. Chamber of Commerce, through arbitration, employees prevail three times more often, recover twice as much money, and resolve their claims more quickly than if they went through the civil courts in litigation; and, in most cases, the employer pays the entire cost of arbitration.

According to one study, in claims between $10,000 and $75,000, the consumer claimant was charged an average of $219. Now, you compare that to the cost of hiring an attorney and taking on an entire corporate legal department.

The net result of this bill will be higher prices for products and lower wages for workers as companies factor the higher cost of litigation into their business models, and, meanwhile, it denies consumers and employees the freedom to choose a much simpler and less expensive way to resolve their disputes.

□ 0930

Mr. CICILLINE. Madam Chair, I yield myself such time as I may consume.

Madam Chair, my colleagues on the other side of the aisle have argued that forced arbitration is cheaper or easier than litigation and that consumers and workers should have a choice.

The FAIR Act doesn't take away anybody's choice. It restores choice. It restores choice that has been taken away from the American people by big corporations that don't want to face liability or public scrutiny for their actions. This is a complete misrepresentation of what the bill does.

The FAIR Act does not ban arbitration. It eliminates forced arbitration that is imposed on everyday consumers and hardworking Americans before a dispute even arises.

And the notion that you have a choice, most consumers don't even know it is happening. When you check that box on the contract for your phone or your cable, you have given away your right to have your claims heard. It is very widespread in consumer employment contracts.

These clauses are hidden, very often, from consumers and workers. They appear inside of envelopes and delivery boxes in the fine print of privacy policies, which often span dozens of pages. In most cases, people aren't even aware that they have signed away their right to a day in court, simply by using everyday goods and services.

Companies still have the option to use arbitration, but only on a voluntary basis after a dispute arises and not by unilaterally imposing it on people by big corporate entities.

Madam Chair, I yield 1 minute to the distinguished gentleman from Florida (Mr. DEUTCH), the distinguished senior member of the Judiciary Committee.

Mr. DEUTCH. Madam Chair, I thank my friend from Rhode Island, a great champion for consumers, for yielding.

Madam Chair, I rise in support of the FAIR Act to protect Americans from forced arbitration agreements. These agreements, too often, are the result of power imbalances that block claims from judicial remedies in employment, consumer, antitrust, and civil rights disputes.

The FAIR Act is critical for protecting the rights of women, in particular, who have faced gender discrimination and sexual harassment in the workplace. We have all heard the disturbing reports of tens of thousands of women employed at one large company who alleged that they were paid less than their male colleagues. They were passed over for promotions to management positions multiple times in favor of men with less experience. They faced unwanted sexual advances and attempted assault at company meetings. At least one Floridian was fired after she reported one of her superiors tried to kiss and touch her against her will.

Employees who face mistreatment deserve justice and they deserve their day in court. Making forced arbitration a condition of employment takes away their day in court and it frustrates the pursuit of justice.

The CHAIR. The time of the gentleman has expired.

Mr. CICILLINE. Madam Chair, I yield an additional 30 seconds to the gentleman from Florida.

Mr. DEUTCH. Forced arbitration provisions strip employees of their rights. They ensure that employees are no match for their employers when it comes to reporting discrimination and harassment.

Today, this House of Representatives has the opportunity to restore the rights of all workers to seek justice and public accountability.

Madam Chair, I urge my colleagues to support and pass the bipartisan FAIR Act.

Mr. ARMSTRONG. Madam Chair, I yield myself such time as I may consume.

Madam Chair, I agree with my friend from Florida; sexual assault cases should never be a part of forced arbitration, ever, under any circumstances.

The problem is, when we are doing that and moving into this, we are also taking this huge swath of cases that don't qualify at the high end, don't have enough money for class action lawsuits, but yet are too big for small claims court.

The reality of those situations in any court system across the country, is they are overworked, they are behind, and they are delayed. But, most importantly, probably, if you are dealing with a contractual lawsuit that doesn't have the ability to get treble or punitive damages, and it is a small enough claim like a refrigerator or a television, there is really no access because the cost of the lawyer will make it prohibitive to go to court.

And the argument that this only allows choice doesn't really work because the same reason you write a contract at the beginning of a business relationship as opposed to when that relationship is dissolving, is because you want to put terms in place before problems arise. And the reason is when you go to arbitration in these types of cases, one side will be so disadvantaged by arbitration they would never agree to it.

But probably the most egregious part of this bill is the fact that we are retroactively applying it to hundreds of thousands, if not millions, of existing contracts. So things that were agreed to, either employee-vendor or vendee relationships, now will be null and void and we will be rewriting the rules of the game sometimes decades after it has occurred.

So it is important to recognize that—and I would just end with this—probably the most toxic area of law we have everywhere in the country, is family law—and only in a place where you can be in absolute love can you learn to hate somebody that bad—courts are moving towards arbitration prior to dispute resolution in order to deal with it. If anybody has ever dealt with that or practiced in that area of law, there are reasons why this occurs, and it is so you can try to arrange it.

I agree there are abuses. I agree with Ranking Member COLLINS that there are plenty of things we could look at to do, but we cannot throw the whole system out because you are going to have a broad swath of cases that no longer have any legal access.

Madam Chair, I reserve the balance of my time.

Mr. CICILLINE. Madam Chair, I would point out the family law cases that my friend just referenced, of course, are voluntary arbitration proceedings post dispute. This bill has nothing to do with that. This is predispute forced arbitration.

Madam Chair, I yield 1 minute to the distinguished gentlewoman from Connecticut (Ms. DELAURO), a champion for women, and a Member of Congress who has fought to be sure that women have their rights vindicated against powerful corporations for a very long time.

Ms. DELAURO. Madam Chair, forced arbitration is one of the central ways that corporate America has rigged the system against middle class families and working people. It undermines our democracy.

With forced arbitration, employers can force an employee to waive their right to seek justice in court. They need to accept arbitration, which is a private legal process, without a judge or a jury.

The Economic Policy Institute predicts that by 2024, 80 percent of nonunion private sector workers will have lost their right to seek justice in court.

With forced arbitration, working people lose the ability to file an individual class action lawsuit if their rights are violated. They lose the ability to hold bad acting employers to account in an open and impartial forum. And they often lose in their fight for justice.

Let's level the playing field, restore justice for millions of working people,

pass the FAIR Act, and prohibit forced arbitration agreements from being valid or enforceable if they require arbitration of employment, consumer, antitrust, or civil rights disputes. No one should have to give up the right to justice. Let's pass the FAIR Act.

Mr. ARMSTRONG. Madam Chair, I have one real quick response, particularly on family law.

The gentleman is correct; those are almost always post dispute. But in a very significant amount of those cases, they are court ordered arbitration, so I don't know how voluntary we would call it.

Madam Chair, I continue to reserve the balance of my time.

Mr. CICILLINE. Madam Chair, I yield 1 minute to the gentlewoman from California (Ms. SPEIER), perhaps Congress' strongest champion for women, particularly women as it relates to their employers, and someone who has been an advocate for this for a very long time.

Ms. SPEIER. Madam Chair, I thank the gentleman from Rhode Island for that generous introduction.

Madam Chair, I can't believe that we are having this discussion today because it is like there is a parallel universe.

I am going to talk about the 70,000 women of Sterling Jewelers. This is Kay Jewelers, and this is Jared Jewelers. They have been subjected to rampant sexism. And when they complained about it they were denied justice by mandatory arbitration. Sterling's forced arbitration clause has prevented them from seeking justice. It is more like, first you are groped, then you are gagged. That is what forced arbitration is all about.

Diana Acampora was pulled onto the lap of a manager who held her tightly as he fondled her.

Tammy Zenner was nicknamed ''Texas Tammy'' by colleagues because of the size of her breasts and told she should be flattered by an executive rubbing himself on her.

Dawn Souto-Coons was passed over for promotions in favor of lewd and less qualified men.

Diana, Tammy, Dawn, and countless others deserve justice.

The CHAIR. The time of the gentlewoman has expired.

Mr. CICILLINE. Madam Chair, I yield an additional 30 seconds to the gentlewoman from California.

Ms. SPEIER. Instead, Sterling has made a mockery of our laws and has used forced arbitration to make 70,000 women in this country subject to a 14-year process. That is not justice. That is enslavement.

Mr. ARMSTRONG. Madam Chair, I continue to reserve the balance of my time.

Mr. CICILLINE. Madam Chair, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. CARTWRIGHT), who has been a very important champion of this legislation.

Mr. CARTWRIGHT. Madam Chair, I thank the gentleman from Rhode Island for yielding.

Madam Chair, we have heard the stories, and we will continue to hear them, of all of the employees and the consumers who have been tricked into giving away their constitutional right to a jury trial to have their rights enforced.

It doesn't really matter all the constitutional rights you have or all the statutory rights that you have; if you don't have a right to enforce these in court, all of your rights are washed away. So when consumers and employees get tricked into signing away their right to go to court, all of their rights are washed away.

We have heard the stories. And I wanted to add to the list the story of Barbara Jones-Davis, who is 98 years old. She had glaucoma and dementia. She was in a nursing home in northwest Philadelphia. They let her wander. In violation of all their own policies, she wandered outside. She wandered outside for more than 20 minutes. She went over a 15-foot precipice and fell to her death with a broken skull.

Her family got forced into arbitration. The nursing home didn't admit responsibility. They forced her into one of these secret and rigged arbitrations.

These things are unconstitutional. They take away your right to go to court. This is a constitutional right that our Founding Fathers fought and died for: that we would be able to resolve our disputes in court, in open court, fairly chosen, not one of these secret and rigged proceedings that is mandatory. It is forced because people got tricked into them.

Madam Chair, let's all vote for the FAIR Act and restore our American constitutional rights.

Mr. ARMSTRONG. Madam Chair, I yield myself such time as I may consume.

Madam Chair, they are not unconstitutional. The Supreme Court has explained that arbitration is usually cheaper and faster than litigation. It can have simpler procedural and evidentiary rules, normally minimizes hostility, and is less disruptive to ongoing and future business dealings amongst the parties.

I think that is part of the issue here. I said this the other day in committee, and I am probably going to say it more than anybody wants to hear it, but hard cases make bad law. There are obviously issues. There are issues of court systems being abused and there are issues of arbitration being abused. But we have to remember that the vast majority of these cases fall into those normal contract disputes, employment disputes, business versus business disputes, or small dollar level consumer disputes.

While you have a constitutional right to a jury trial in any State or Federal court, depending on your action, you do not have a constitutional right to be able to pay for that in a civil proceeding. The cost of these types of cases just will naturally prohibit them from being resolved in any way at all.

Madam Chair, I reserve the balance of my time.

Mr. CICILLINE. Madam Chair, I yield 1 minute to the gentleman from Virginia (Mr. SCOTT), the distinguished chair of the Education and Labor Committee.

Mr. SCOTT of Virginia. Madam Chair, I thank Mr. JOHNSON, Mr. CICILLINE, and Chairman NADLER for their leadership on this issue.

Madam Chair, I rise in support of the Forced Arbitration Injustice Repeal Act, or the FAIR Act.

Companies are increasingly using forced arbitration clauses to shield themselves from accountability for many forms of wrongdoing, including civil rights violations, labor abuses, and unfair consumer practices. For example, 60 million workers are now subject to forced arbitration clauses that deny them their day in court.

Forced arbitration is a rigged system. That is because the arbitrators are essentially hired by the companies and consumers never have a chance. Workers and consumers should not have to sign away their rights as a condition to their employment or as a condition of a contract, and they should not have to give up their day in court.

Often, arbitration is a desirable alternative to litigation. Under the FAIR Act, arbitration would now be a voluntary option, not the only option.

Madam Chair, I urge my colleagues to support this legislation.

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Mr. ARMSTRONG. Madam Chair, I reserve the balance of my time.

Mr. CICILLINE. Madam Chair, I yield myself such time as I may consume.

Madam Chair, I want to respond briefly to the notion that somehow forced arbitration is good for consumers and workers and that they are really going to miss being forced into these proceedings.

According to a 2017 study by the Economic Policy Institute, consumers won only 9 percent of the claims brought in arbitration while companies won 93 percent of the claims. So in terms of who wins, who has the benefit of this rigged system, it is clear that it is the corporations.

The Economic Policy Institute's economist, Heidi Shierholz, notes that ''not only do companies win in the overwhelming majority of claims when consumers are forced into arbitration, they win big.''

The Consumer Financial Protection Bureau concluded in 2015 that there is ''no evidence of arbitration clauses leading to lower prices for consumers.''

So this notion that even though 83 percent of the American people are against forced arbitration and even though the evidence shows overwhelmingly that they lose in them, that somehow they really like them, it is just not true.

I reserve the balance of my time.

Mr. ARMSTRONG. Madam Chair, I reserve the balance of my time.

Mr. CICILLINE. Madam Chair, may I inquire how much time remains.

The CHAIR. The gentleman from Rhode Island has 14¼ minutes remaining.

Mr. CICILLINE. Madam Chair, I yield myself such time as I may consume.

I would like to build a little bit again on what the real impact of forced arbitration is on consumers and workers.

According to data from the two biggest arbitration providers, the American Arbitration Association and JAMS, only 1,909 consumers won a monetary award in arbitration over a 5-year period. In all nursing home arbitrations, only four won a monetary reward over that 5-year period. Of the 11,114 employment claims that were filed, only 282 won a monetary award. That is 2.5 percent.

Of the 6,012 arbitration cases involving credit cards and banks, only 131 won monetary damages. That is barely 2 percent.

These numbers make it clear that you are more likely to be struck by lightning than win a monetary award in forced arbitration.

Furthermore, forced arbitration discourages consumers and workers from adjudicating disputes altogether, while the lower probability of victory and the meager legal fees associated with forced arbitration discourage attorneys from representing individuals in arbitration proceedings.

Even when workers go to arbitration, the system can wreak havoc on their lives, and we heard many examples, particularly in the context of sexual assault and harassment victims.

We heard during our hearing on forced arbitration from advocate and former FOX News commentator Gretchen Carlson who spoke forcefully about the horrifying effect that forced arbitration has on victims of sexual assault and harassment.

Again, forced arbitration is corporate immunity. It is rigged because corporations get to pick the arbitrators and the whole proceeding is entirely secret.

That is why, overwhelmingly, the American people want forced arbitration to end once and for all, and that is what the FAIR Act does.

I reserve the balance of my time.

Mr. ARMSTRONG. Madam Chair, I think we can't talk about this bill and talk about arbitration without also talking about class actions.

Mayer Brown did a study on class-action suits. Rather than simply relying on anecdotes, the study undertook an empirical analysis of neutrally selected sample sets of putative consumer and employee class-action lawsuits filed in Federal court in 2009.

In the entire dataset, not one of the class actions ended in a final judgment on the merits for the plaintiff. None of the class actions went to trial, either before a judge or a jury.

The vast majority of cases produced no benefits to most members of the putative class, even though in a number of those cases, the lawyers who sought to represent the class often enriched themselves in the process, and the lawyers representing the defense as well.

Approximately 14 percent of all class-action cases remain pending 4 years after they were filed, without resolution or even a determination of whether the case could go forward on a class-wide basis. In these cases, class members have not yet received any benefits and likely will never receive any, based on the disposition of the other cases we have studied.

Over one-third, 35 percent, of the class actions that have been resolved were dismissed voluntarily by the plaintiff. Many of these cases settled on an individual basis, meaning a payout to the individual named plaintiff and the lawyers who brought the suit, even though the class members receive nothing.

Just under one-third, 31 percent, of class actions that have been resolved were dismissed by a court on the merits. Again, that means that the class received nothing.

One-third, 33 percent, of resolved cases were settled on a class basis.

The settlement rate is half the average for Federal court litigation, meaning that a class member is far less likely to have even a chance of obtaining relief than the average party suing individually.

For those cases that do settle, there is often little or no benefit for class members.

I have been personally involved in this in a Barbri lawsuit for any member of the bar across the country. I have no idea how much my fellow lawyers made, but I know I got a check for $37 in the mail. Few class members ever even see those paltry benefits, particularly in consumer class actions.

Unfortunately, because information regarding the distribution of class-action settlements is rarely available, the public almost never learns what percentage of a settlement is actually paid to class members. But of the six cases in the dataset for which the settlement dispute was made public, five delivered funds to only minuscule percentages of the class, 0.000006, 0.33 percent, 1.5 percent, 9.6 percent, and 12 percent.

Those results are consistent with other available information about settlement distribution in consumer class actions.

Although some cases provide for automatic distribution of benefits to class members, automatic distribution is almost never used in consumer class actions. Only 1 of the 40 settled cases fell into that category.

The bottom line is, the hard evidence shows that class actions do not provide class members with anything close to the benefits claimed by their proponents, although they can and do enrich attorneys.

I reserve the balance of my time.

Mr. CICILLINE. Madam Chair, I yield the balance of my time to the gentleman from New York (Mr. NADLER), the distinguished chair of the full committee.

Mr. NADLER. Madam Chairwoman, I rise in strong support of H.R. 1423, the Forced Arbitration Injustice Repeal Act, or the FAIR Act.

This critical legislation would restore access to justice for millions of Americans who are currently locked out of the court system and are forced to settle their disputes against companies in a private system of arbitration that is often skewed in the company's favor over the individual.

Nearly a century ago, Congress enacted the Federal Arbitration Act to allow merchants to resolve run-of-the-mill contract disputes in a system of private arbitration that would be legally enforceable. The system that Congress envisioned was to be used voluntarily and only between merchants of equal bargaining power.

However, the Supreme Court, over the past 40 years, has issued a series of decisions that have expanded the use of arbitration far beyond Congress' original intent or a fair reading of the text of the Federal Arbitration Act, creating the unjust system that we see today.

Private arbitration has been transformed from a voluntary forum for companies to resolve commercial disputes into a legal nightmare for millions of consumers, employees, and others who are forced into arbitration and are unable to enforce certain fundamental rights in court.

Many companies use forced arbitration as a tool to protect themselves from consumers and workers who seek to hold them accountable for wrongdoing. By burying a forced arbitration clause deep in the fine print of a take-it-or-leave-it consumer or employment contract, companies can evade the court system, where plaintiffs have far greater legal protections, and hide behind the one-sided process that is tilted in their favor.

For example, arbitration generally limits discovery, does not adhere to the Rules of Civil Procedure, can prohibit class actions—which it almost always does—and denies the right of appeal. Worse yet, arbitration allows the proceedings, and often even the results, to stay secret, thereby permitting companies to avoid public scrutiny of potential misconduct, thereby enabling companies to continue unsafe practices after settling with one person.

For millions of consumers and employees, the precondition—whether they know it or not—of obtaining a basic service or product, such as a bank account, a cell phone, a credit card, or even a job, is that they must agree to resolve any disputes in private arbitration.

We used to refer to these kinds of agreements as contracts of adhesion, where one party with all the power dictates the terms to the other party in a take-it-or-leave-it contract.

The next time you apply for a credit card, try crossing out the term in the

fine print requiring you to agree to arbitration and see if you still get that credit card. You will be denied without a moment's hesitation.

These are classic contracts of adhesion, which were once clearly disfavored under the law, but which now seem to have been blessed by the Supreme Court as standard operating procedures in the corporate world.

Madam Chair, the Seventh Amendment to the Constitution guarantees everyone the right to a jury trial for all controversies at law over $20. These agreements for arbitration nullify the Seventh Amendment. We have to respect the Constitution. The Constitution has more things in it than the Second Amendment. It has a few other amendments, like the Seventh Amendment, which we should respect.

These contracts of adhesion, these agreements, nullify any protections that Congress votes. If we vote or a State legislature votes on an employment protection, a union protection, a consumer protection, its enforcement can be completely nullified by these arbitration agreements.

For individuals who have no choice but to agree to these contracts, that means that their ability to enforce civil rights, consumer, labor, and antitrust laws are subject to the whims of a private arbitrator, often selected by the companies themselves. These private arbitrators are not required to provide plaintiffs any of the fundamental protections guaranteed in the courts, and their further employment can depend on building a good reputation with the companies that hire them.

Unsurprisingly, then, arbitration has become a virtual get-out-of-jail-free card that many companies use to circumvent the basic rights of consumers and workers.

H.R. 1423, the FAIR Act, reverse this disastrous trend by prohibiting arbitration clauses in consumer, labor, antitrust, and civil rights disputes.

Importantly, this legislation does not preclude parties from agreeing to arbitrate a claim after the dispute arises, which will ensure that arbitration agreements are truly voluntary and transparent. It does, however, prevent unsuspecting consumers and employees from being forced to give up their right to seek justice in court.

I urge my colleagues to support this vital legislation, and I reserve the balance of my time.

Mr. ARMSTRONG. Madam Chair, I yield myself such time as I may consume.

Madam Chair, like the First Amendment, Fourth Amendment, and when you are from a small State, you are a big fan of the 10th Amendment as well. I like the Second Amendment, but I like the other ones, too.

We are talking about credit cards, and we are talking about those issues, and I think we are talking about consumer contracts. The Consumer Financial Protection Bureau did a study in 2015, and it came up with a couple of things. Particularly, you cannot talk about getting rid of forced arbitration without talking about class actions again.

For example, the CFPB study found that the substantial majority of class actions are resolved with no benefits to the class members. The weighted-average claims were only 4 percent, i.e., the vast majority of class members do not file claims for payment from class action settlement funds. The average settlement payment to class members was just $32.35, while the average attorney's fees averaged $1 million per case. The average fee paid to class action plaintiffs' lawyers as a percentage of the announced settlement was 41 percent, with a median of 46 percent.

Class-action lawsuits produce class-wide settlements and took an average of nearly 2 years to resolve. Obviously, there are cases that go longer; there are cases that go shorter. But when you are dealing in a consumer protection area for a small amount of money, 2 years is an exceptionally long time to be dealing with that kind of litigation.

Arbitration is simpler. It is quicker. It is often easier and more convenient for the parties. In many cases, it creates less hostility and gets finished quicker.

I reserve the balance of my time.

Mr. NADLER. Mr. Chair, I yield 2 minutes to the distinguished gentlewoman from Illinois (Mrs. BUSTOS).

Mrs. BUSTOS. Mr. Chair, I thank Chairman NADLER for yielding, and I also thank Congressman JOHNSON for this very important bill. I thank him for his fight on behalf of so many people.

I rise today in strong support of the FAIR Act. This is a bill that would end the secret arbitration process and the cycle of silencing victims of predatory behavior.

I first became involved with this fight a couple of years back when The Washington Post detailed allegations of a chief executive at Jared and Kay Jewelers who only promoted women who would sleep with him. The Post shed light on mandatory, alcohol-fueled managers meetings where dozens of women were demeaned and groped.

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As I continued working on this issue, I met with women from the tech industry who watched in horror as bigwig executives were given multimillion-dollar exit packages after facing credible allegations of misconduct. But none of these women were allowed to speak out.

Why? Because they were forced into a secret arbitration process, losing their right to sue and ensuring their claims would never see the light of day. And, if they were to speak out publicly, they—they as the women who were victims of this—could be sued for breaking this nondisclosure agreement.

This is a practice that is so egregious that the attorneys general in all 50 of our States have come out against forced arbitration clauses that are used in cases of sexual misconduct.

Mr. Chairman, I urge my colleagues on both sides of the aisle to stand on the side of workers, on the side of fairness and transparency, and on the side of doing what is right. I urge all of us to support this piece of legislation.

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

Mr. NADLER. Mr. Chairman, may I inquire how much time is remaining, please, on each side.

The Acting CHAIR (Mr. PETERS). The gentleman from New York has 5¼ minutes remaining. The gentleman from North Dakota has 12¾ minutes remaining.

Mr. NADLER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Virginia (Mr. BEYER).

Mr. BEYER. Mr. Chairman, I have been speaking about the need to ban forced arbitration since I joined Congress. It is wonderful to finally have this bill, the FAIR Act, up for a vote in Congress, and I really want to thank Congressman JOHNSON.

I think what is so troubling about forced arbitration is that, when we finally discover that we have become a victim of it, we feel helpless and taken advantage of. These forced arbitration clauses are buried in the fine print of everyday contracts, and before you know it, we are unknowingly giving up our legal rights.

But I come before you, Mr. Chairman, as a small business owner to say this is completely unnecessary. As a small business owner of 46 years, we are selling 4,000 and 5,000 cars a year, and we have never had to resort to mandatory binding arbitration. In fact, what we say is that, if you have a conflict, we would love to go to arbitration with you, and we will respect whatever the arbiter says; but, if you don't like it, you can still sue us, giving the maximum choice to the consumer. As a result, you rarely have a conflict that gets out of hand.

One only needs to think of the Wells Fargo case where Wells Fargo was sued by several of its customers for using their personal information to open all these fake accounts; but, when they filed suit against Wells Fargo, they found out they had this mandatory forced arbitration clause buried in the customer agreement.

Mr. Chairman, I encourage us to support this good bill.

Mr. ARMSTRONG. Mr. Chairman, I continue to reserve the balance of my time.

Mr. NADLER. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Chairman, I rise in strong support of H.R. 1423, the FAIR Act.

Forced arbitration clauses were originally intended to mediate business disputes among businesses, not between businesses and individuals, but now they are found in every aspect of

our lives. From employment contracts to student loans, to cellphone plans, to credit cards and numerous other goods and services, every American has agreed to forced arbitration, whether they want to or not.

This bill ensures that individuals have the right to choose how they seek justice: the choice to go to court, the choice to join a class action lawsuit, and, yes, even the choice to go to arbitration.

But these choices should not be made for them by somebody else. Passage of the FAIR Act will restore that choice, and I urge all of my colleagues to support this important legislation.

Mr. ARMSTRONG. Mr. Chairman, I continue to reserve the balance of my time.

Mr. NADLER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. JEFFRIES).

Mr. JEFFRIES. Mr. Chairman, I thank the chairman and distinguished gentleman from Georgia for his tremendous leadership.

Women have a right not to be sexually harassed; people of color have a right not to be discriminated against; workers have a right not to be exploited; consumers have a right not to be defrauded; and the American people have a right to liberty and justice for all. Unfortunately, the malignant practice of forced arbitration takes these rights away.

The American people are being hoodwinked, bamboozled, and led astray. The practice of forced arbitration effectively makes rights available without a remedy. This practice is unconscionable, unacceptable, and un-American.

Vote ''yes'' on the FAIR Act so we can end this practice of forced arbitration once and for all.

Mr. ARMSTRONG. Mr. Chairman, I yield myself the remainder of my time.

In closing, I just want to ask one simple question: Under this bill, who wins and who loses?

Do consumers win? No. Studies show arbitration provides consumers faster and cheaper results that are just as good as court outcomes deliver; and we know that they will have way more access to a result in small cases that are bigger than small claims and too small—those in which hiring a private lawyer at an hourly rate makes sense but are too small so class action doesn't apply.

Do employees win? No. Research shows employees are three times more likely to win in arbitration than in court, and prevailing employees typically win twice as much money in arbitration in a shorter period of time.

Do class action plaintiffs win? Not if you listen to the Consumer Financial Protection Bureau. The CFPB'S 2015 study of arbitration and class actions found the substantial majority of class actions were resolved with no benefits flowing to the absent class members. The weighted average rate in class actions was only 4 percent, meaning the vast majority of class members do not file claims for payment under class action settlement funds. The average settlement payment, again, was only $32.35.

Does anybody win under this bill? Surprise, surprise, somebody does. It is the plaintiffs' in class action trial bar. Once again, all you have to do is look at the CFPB's study. It found that class action attorneys' fees average $1 million per case, and the average fee paid to a class action plaintiffs' lawyer as a percentage of the announced settlement was 41 percent, with a median of 46 percent.

So the answer to the question about this bill is simple: Consumers don't win. Employees don't win. Even class action plaintiffs don't win. But the plaintiffs' class action trial lawyers sure do win, and they make out like bandits.

Mr. Chairman, I urge my colleagues to vote ''no'' on this unjust bill, and I yield back the balance of my time.

Mr. NADLER. Mr. Chair, I yield myself the balance of my time.

Mr. Chair, we have a bedrock principle in this country, and that is that all Americans deserve their day in court. We make a mockery of this principle, however, when individuals can be stripped of this fundamental right and be forced into private arbitration proceedings without the safeguards our judicial system affords.

We make a mockery of this right not only when individuals can be stripped of this right, but when almost all Americans are stripped of this fundamental right and are forced into private arbitration proceedings without the safeguards our judicial system affords.

Now, we heard the statistics cited by the gentleman, which come from the Chamber of Commerce, and Mr. CICILLINE showed how wrong those statistics were.

But the real point is, of course, that, under this bill, if a plaintiff thinks that he can get a better deal under arbitration, then arbitration is available voluntarily, as it should be.

What this bill seeks to ban is individuals—almost all Americans—involuntarily giving up their sacred constitutional right to a trial by jury, to their day in court, whether they like it or not. This bill will guarantee that people have their rights. They can opt for arbitration if they want to, but they don't have to.

This bill supports liberty; it supports constitutional rights; and it supports the little guy against the giant corporation. H.R. 1423, the FAIR Act, rights these wrongs by reopening the courthouse door to all Americans.

I applaud the gentleman from Georgia (Mr. JOHNSON) for his leadership on this legislation which has 222 cosponsors.

This measure is also supported by a broad coalition of more than 70 public-interest, labor, and advocacy organizations, including Public Citizen, Consumer Reports, the Communications Workers of America, the Leadership Conference on Civil Rights, and the American Association of Justice, not just by trial lawyers.

In addition, 84 percent of Americans across the political spectrum support ending forced arbitration in employment and consumer disputes, according to recent polling data.

Mr. Chairman, it is up to Congress to end this secretive and unfair practice. I urge my colleagues to support the FAIR Act and to restore access to justice for millions of Americans, and I yield back the balance of my time.

Ms. JACKSON LEE. Mr. Chair, as a senior member of the Judiciary Committee, I rise in strong support of H.R. 1423, the Forced Arbitration Injustice Repeal Act or the FAIR Act.

I support the FAIR Act because it restores the rights of workers and consumers by making forced arbitration between individuals and corporations illegal.

This would allow individuals the choice as to how to pursue their rights against a corporation.

It also means that corporations will know that when they violate the law, they can be held publicly accountable.

I have been a champion of FAIR since 2006 when we were discussing the LaVar Arrington and arbitration process of the National Football League Players Association.

Mr. Arrington was an All-Pro linebacker for the Washington Redskins and the New York Giants in the NFL.

In 2004, the NFLPA agreed to represent LaVar Arrington in the matter and retained a major New York law firm.

I am advised that the law firm did not meet with LaVar Arrington until shortly before his non-injury grievance arbitration was scheduled to be heard.

LaVar Arrington was not impressed with the performance of his legal representatives, and after the hearing called NFLPA President Gene Upshaw to complain.

LaVar Arrington asked Mr. Upshaw, who had hired a major New York firm, how they could be his lawyers if they had not even bothered to meet with him, the client, until shortly before the arbitration.

LaVar Arrington told Gene Upshaw he was going to hire his own attorney who could give him an objective view and did so shortly thereafter.

After LaVar Arrington retained new counsel, the arbitration was adjourned for the purpose of pursuing settlement negotiations.

Through the efforts of new counsel, a settlement was reached and Mr. Carl Poston played an important role in achieving this settlement, including arranging a meeting with Redskins Coach Joe Gibbs to explain LaVar Arrington's feelings concerning the situation.

Coach Gibbs helped prevail on the Redskins to reach an acceptable settlement with LaVar Arrington.

The settlement provided that no one did anything wrong or improper and provided for a new contract for LaVar Arrington under which he could obtain an additional $4.85 million under certain conditions, including the right to void the contract if he made Pro Bowls in the next four years unless the Redskins paid LaVar Arrington an additional $3.25 million.

The settlement agreement provided:

"This Agreement shall not be construed as an admission of liability or a finding of wrongdoing by any party."

As LaVar Arrington has put it, "[m]y grievance against the Redskins has been settled on no-fault, win-win resolution."

In 2006, when faced with the issues of the NFLPA's arbitration procedures, I had the questions of:

(a) whether the arbitration procedures employed by the NFLPA are fair;

(b) whether they ensure a neutral arbitrator;

(c) whether adequate opportunity for judicial review exists; and

(d) whether the procedures comport with the intent underlying the Federal Arbitration Act and, if not, what might be a proper legislative response.

We cannot continue to allow corporations to bury forced arbitration clauses in employee handbooks and smart phone apps.

Notably, the bill also applies to small businesses seeking to protect their rights under federal antitrust laws.

We know it is a one-sided system and that corporations write the clauses to be so rigged so most people give up pursing their rights altogether.

Corporations choose the forced arbitration provider, the rules under which the forced arbitration will take place, the state in which the forced arbitration proceeding will occur, and the payment terms.

Most people do not know about forced arbitration but even those who are aware have no say in the process and, because these clauses apply to most jobs, products, and services, a person has no choice but to live with the total depravation of their rights via forced arbitration or give up the job/product/service altogether.

I would like to acknowledge a victim of forced arbitration.

I have been told we are joined by Alexander Newton, the brother of Andowah Newton from New York.

Andowah Newton is Vice President, Legal Affairs at LVMH Moët Hennessy Louis Vuitton Inc., a multinational luxury goods conglomerate.

For years, Ms. Newton was sexually harassed at work by a colleague.

When she formally reported the harassment, the company demanded she apologize to the harasser for reporting him and the company promoted the harasser.

It also began retaliating against her at work.

Ms. Newton had been forced to sign a mandatory arbitration agreement as part of accepting her offer of employment.

Pursuant to New York's 2018 law prohibiting employment agreements that mandate arbitration of sexual harassment claims, in 2019, Ms. Newton filed her sexual harassment claims in New York state court.

The company has moved to compel arbitration, arguing that the New York law is preempted by federal law and that Ms. Newton should be forced into mandatory confidential arbitration proceedings.

Ms. Newton continues to fight the motion to compel in court.

For Ms. Newton and for all of the victims of forced arbitration, we need to resolve this injustice.

Buried in the fine print of everything from nursing home admissions forms and credit card "agreements," to online click-through "terms and conditions" and employee handbooks, forced arbitration enables corporations to evade responsibility and avoid accountability.

Forced arbitration means that when a corporation violates the rights of their workers or consumers, they cannot enforce their rights.

Forced arbitration lets corporations funnel aggrieved workers and consumers into a private and secret system which is designed by the corporation to be so rigged that most people are forced to give up their rights altogether.

We know that because corporations know that most individuals will simply give up when faced with a forced arbitration, there is virtually no incentive for corporations to follow the law, or to quickly and fairly handle consumer or worker claims.

The FAIR Act would restore the rights of workers and consumers by making forced arbitration between individuals and corporations illegal—meaning that individuals will be returned the choice as to how to pursue their rights against a corporation.

The FAIR Act also means that corporations will know that when they violate the law, they can be held publicly accountable, thereby returning to corporations the powerful incentive to follow the law in the first place and to treat people justly and fairly.

Forced arbitration is a private, secretive system without any enforceable standards or legal protections.

There is no public review of decisions to ensure the arbitrator got it right.

Federal law does not even require that arbitrators have any legal training or even follow the law and the entire system is unaccountable to the public.

American heroes fought hard for fundamentally important laws—such as federal antidiscrimination laws and laws to protect servicemembers and their families—but these laws are now unenforceable.

It is time to close the forced arbitration loophole that gives corporations the power to ignore the laws Congress enacted.

The Supreme Court held that corporations are allowed to force individuals into arbitration because the Federal Arbitration Act, which was passed in 1925—wipes out all rights under all other laws unless and until Congress updates that law.

Thus, the FAIR Act simply amends the Federal Arbitration Act to make clear that workers and consumers cannot be forced into arbitration against their will.

This prohibition on forced arbitration would apply to all workers (no matter how they are classified by their employer), consumers, and small businesses seeking to enforce their rights under antitrust laws.

I urge my colleagues to join me in supporting H.R. 1423, the "Forced Arbitration Injustice Act."

The Acting CHAIR. All time for general debate has expired.

In lieu of the amendment in the nature of a substitute recommended by the Committee on the Judiciary, printed in the bill, it shall be in order to consider as an original bill for purpose of amendment under the 5-minute rule an amendment in the nature of a substitute consisting of the text of Rules Committee Print 116–32, modified by the amendment printed in part A of House Report 116–210. That amendment in the nature of a substitute shall be considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 1423

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Forced Arbitration Injustice Repeal Act'' or the ''FAIR Act''.

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) prohibit predispute arbitration agreements that force arbitration of future employment, consumer, antitrust, or civil rights disputes, and

(2) prohibit agreements and practices that interfere with the right of individuals, workers, and small businesses to participate in a joint, class, or collective action related to an employment, consumer, antitrust, or civil rights dispute.

SEC. 3. ARBITRATION OF EMPLOYMENT, CONSUMER, ANTITRUST, AND CIVIL RIGHTS DISPUTES.

(a) IN GENERAL.—Title 9 of the United States Code is amended by adding at the end the following:

''CHAPTER 4—ARBITRATION OF EMPLOYMENT, CONSUMER, ANTITRUST, AND CIVIL RIGHTS DISPUTES

''Sec.
''401. Definitions.
''402. No validity or enforceability.''.

''§ 401. Definitions

''In this chapter—

''(1) the term 'antitrust dispute' means a dispute—

''(A) arising from an alleged violation of the antitrust laws (as defined in subsection (a) of the first section of the Clayton Act) or State antitrust laws; and

''(B) in which the plaintiffs seek certification as a class under rule 23 of the Federal Rules of Civil Procedure or a comparable rule or provision of State law;

''(2) the term 'civil rights dispute' means a dispute—

''(A) arising from an alleged violation of—

''(i) the Constitution of the United States or the constitution of a State;

''(ii) any Federal, State, or local law that prohibits discrimination on the basis of race, sex, age, gender identity, sexual orientation, disability, religion, national origin, or any legally protected status in education, employment, credit, housing, public accommodations and facilities, voting, veterans or servicemembers, health care, or a program funded or conducted by the Federal Government or State government, including any law referred to or described in section 62(e) of the Internal Revenue Code of 1986, including parts of such law not explicitly referenced in such section but that relate to protecting individuals on any such basis; and

''(B) in which at least 1 party alleging a violation described in subparagraph (A) is one or more individuals (or their authorized representative), including one or more individuals seeking certification as a class under rule 23 of the Federal Rules of Civil Procedure or a comparable rule or provision of State law;

''(3) the term 'consumer dispute' means a dispute between—

''(A) one or more individuals who seek or acquire real or personal property, services (including services related to digital technology), securities or other investments, money, or credit for personal, family, or household purposes including an individual or individuals who seek certification as a class under rule 23 of the Federal Rules of Civil Procedure or a comparable rule or provision of State law; and

''(B)(i) the seller or provider of such property, services, securities or other investments, money, or credit; or

''(ii) a third party involved in the selling, providing of, payment for, receipt or use of information about, or other relationship to any such property, services, securities or other investments, money, or credit;

''(4) the term 'employment dispute' means a dispute between one or more individuals (or their authorized representative) and a person arising out of or related to the work relationship or prospective work relationship between them, including a dispute regarding the terms of or payment for, advertising of, recruiting for, referring of, arranging for, or discipline or discharge in connection with, such work, regardless of whether the individual is or would be classified as an employee or an independent contractor with respect to such work, and including a dispute arising under any law referred to or described in section 62(e) of the Internal Revenue Code of 1986, including parts of such law not explicitly referenced in such section but that relate to protecting individuals on any such basis, and including a dispute in which an individual or individuals seek certification as a class under rule 23 of the Federal Rules of Civil Procedure or as a collective action under section 16(b) of the Fair Labor Standards Act, or a comparable rule or provision of State law;

''(5) the term 'predispute arbitration agreement' means an agreement to arbitrate a dispute that has not yet arisen at the time of the making of the agreement; and

''(6) the term 'predispute joint-action waiver' means an agreement, whether or not part of a predispute arbitration agreement, that would prohibit, or waive the right of, one of the parties to the agreement to participate in a joint, class, or collective action in a judicial, arbitral, administrative, or other forum, concerning a dispute that has not yet arisen at the time of the making of the agreement.

''§ 402. No validity or enforceability

''(a) IN GENERAL.—Notwithstanding any other provision of this title, no predispute arbitration agreement or predispute joint-action waiver shall be valid or enforceable with respect to an employment dispute, consumer dispute, antitrust dispute, or civil rights dispute.

''(b) APPLICABILITY.—

''(1) IN GENERAL.—An issue as to whether this chapter applies with respect to a dispute shall be determined under Federal law. The applicability of this chapter to an agreement to arbitrate and the validity and enforceability of an agreement to which this chapter applies shall be determined by a court, rather than an arbitrator, irrespective of whether the party resisting arbitration challenges the arbitration agreement specifically or in conjunction with other terms of the contract containing such agreement, and irrespective of whether the agreement purports to delegate such determinations to an arbitrator.

''(2) COLLECTIVE BARGAINING AGREEMENTS.—Nothing in this chapter shall apply to any arbitration provision in a contract between an employer and a labor organization or between labor organizations, except that no such arbitration provision shall have the effect of waiving the right of a worker to seek judicial enforcement of a right arising under a provision of the Constitution of the United States, a State constitution, or a Federal or State statute, or public policy arising therefrom.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Title 9 of the United States Code is amended—

(A) in section 1 by striking ''of seamen,'' and all that follows through ''interstate commerce'' and inserting in its place ''of individuals, regardless of whether such individuals are designated as employees or independent contractors for other purposes'',

(B) in section 2 by inserting ''or as otherwise provided in chapter 4'' before the period at the end,

(C) in section 208—

(i) in the section heading by striking ''**CHAPTER 1; RESIDUAL APPLICATION**'' and inserting ''**APPLICATION**'', and

(ii) by adding at the end the following: ''This chapter applies to the extent that this chapter is not in conflict with chapter 4.'', and

(D) in section 307—

(i) in the section heading by striking ''**CHAPTER 1; RESIDUAL APPLICATION**'' and inserting ''**APPLICATION**'', and

(ii) by adding at the end the following: ''This chapter applies to the extent that this chapter is not in conflict with chapter 4.''.

(2) TABLE OF SECTIONS.—

(A) CHAPTER 2.—The table of sections of chapter 2 of title 9, United States Code, is amended by striking the item relating to section 208 and inserting the following:

''208. Application.''.

(B) CHAPTER 3.—The table of sections of chapter 3 of title 9, United States Code, is amended by striking the item relating to section 307 and inserting the following:

''307. Application.''.

(3) TABLE OF CHAPTERS.—The table of chapters of title 9, United States Code, is amended by adding at the end the following:

''4. Arbitration of Employment, Consumer, Antitrust, and Civil Rights Disputes ..... 401''.

SEC. 4. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on the date of enactment of this Act and shall apply with respect to any dispute or claim that arises or accrues on or after such date.

The Acting CHAIR. No amendment to that amendment in the nature of a substitute shall be in order, except those printed in part B of House Report 116–210. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. JORDAN

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in part B of House Report 116–210.

Mr. JORDAN. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 6, strike lines 16 through 25.

The Acting CHAIR. Pursuant to House Resolution 558, the gentleman from Ohio (Mr. JORDAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio.

Mr. JORDAN. Mr. Chairman, the amendment addresses a glaring flaw in the legislation.

The bill strips nonunion employees of any and all benefits they might gain by contracts they have signed to arbitrate their disputes. It says that contracts which force arbitration for employment disputes—thereby, contracts which open a faster, cheaper path of justice for employees—are no longer permitted even though research has shown that employees obtain more favorable judgments in arbitration than in court. In court, of course, the average employee stands to be seriously outgunned by an employer who has far more resources to hire costly courtroom counsel.

While the bill takes those benefits out of the hands of nonunion employees, it doesn't do that for union employees. Predispute, mandatory binding arbitration contracts negotiated by unions with employers or with other unions are left untouched by the bill.

This bill is titled the Forced Arbitration Injustice Repeal Act, but it should be titled the forced injustice guarantee act because the bill enacts injustice between union and nonunion employees.

Nonunion employees get handed over to the high-cost plaintiffs' trial lawyers and may never be able to afford their day in court. Union employees get all the benefits of forcing arbitration with their employers and don't have to make a sacrifice at all like the nonunion employees do.

Mr. Chairman, the amendment fixes the hypocritical treatment in the legislation. I urge my colleagues to support the amendment, and I reserve the balance of my time.

Mr. NADLER. Mr. Chair, I claim the time in opposition to the amendment.

The Acting CHAIR. The gentleman from New York is recognized for 5 minutes.

Mr. NADLER. Mr. Chair, I rise in strong opposition to this amendment.

There are more than 60 million workers who make up a majority of nonunion, private sector employees and who are subject to forced arbitration clauses. These employees are told that, if they want to get a job or keep the job they have, they must sign away their right to their day in court and submit to forced arbitration. These workers have absolutely no choice.

Many of these workers have no idea that they are subject to forced arbitration, and even if they are aware, there is nothing they can do about it; and, of course, it is not possible for them to know that they may be victims of sexual assault, wage discrimination, or other illegal behavior before they begin employment.

This is a serious power imbalance which allows companies to unilaterally impose unfair terms upon nonunion employees. The FAIR Act aims to put power back into the hands of these 60 million workers who have been forced by their employer to sign away their rights.

But when real choice is part of the equation, arbitration can be a reasonable alternative to litigation. Collective bargaining, which involves meaningful negotiation between the company and the union, results in a much different arbitration process and can produce much different results.

In a 2019 report, the Economic Policy Institute noted that ''beyond the use of the world 'arbitration,' the system that organized labor and management have long been using to resolve disputes has almost nothing in common

with the top-down, take-it-or-leave-it brand of arbitration.''

□ 1015

The collective bargaining process provides protections that are simply unavailable to many nonunion workers, such as the ability to reject unfair employment terms. In collective bargaining, the company cannot just impose its will upon the union. There must be buy-in on both sides.

When arbitration is agreed to through collective bargaining, there is less likely to be an experience gap between the parties. In nonunion arbitration, the company continuously interacts with arbitrators, while the employee may only see the arbitrator once, if that. And in most cases, the company gives itself unilateral power to pick the arbitrator. This creates a conflict of interest in which the arbitrator has a strong incentive to prioritize the company's interest by finding in its favor than to fairly assess the claim at issue.

The collective bargaining process looks much different. Like the company, the union also has the benefit of being a repeat player in arbitration. The union understands how the process works, and it may even have experience practicing in front of the same arbitrator multiple times.

When the repeat player dynamic exists on both sides of the arbitration, the risk that one party will be systematically favored over the other is greatly reduced.

Furthermore, through collective bargaining, a union can secure a variety of important protections for workers, such as requiring truly neutral arbitrators, paid time off for employees to participate in the arbitration, and transparent decisionmaking.

Often, union employees are guaranteed a multilevel appeals process, lowering the risk that an arbitrator will ignore relevant laws or that there will be an unjust result.

The concerns that the FAIR Act is designed to address simply do not occur in the context of collective bargaining and, therefore, makes no sense to apply its restrictions to such contracts.

Accordingly, I strongly oppose this amendment, and I encourage my colleagues to vote against this amendment.

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

Mr. JORDAN. Mr. Chair, I have seen elected officials change their positions. I have never seen it happen in 5 minutes.

Mr. Chair, 5 minutes ago, the chairman of the Committee on the Judiciary stood up at the end, closing out the debate on the overall legislation before we got to the amendment debate, and he said this, ''a bedrock principle in this country is you get your day in court.'' The next word he used was important. He said, ''all'' Americans deserve their day in court. Now, he just told us that is not the case.

I guess by ''all,'' he meant only if you are nonunion do you get your day in court. Union people don't. They have to abide by these arbitration contracts.

This is really simple. This is about fairness. If it is good for the goose, it is good for the gander. That is all we are saying here.

If the chairman of the Committee on the Judiciary believes what he just said 5 minutes ago, then he should be in support of this amendment.

Or maybe he didn't mean ''all'' when he said ''all'' Americans deserve their day in court.

Maybe he didn't mean ''bedrock principle'' when he said bedrock principle.

Maybe he only meant, Oh, it is a principle just for some people, which means, by definition, it is not a principle at all.

So I want to know which position the chairman has; the one he said 5 minutes ago, or the one he said 2 minutes ago.

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

Mr. NADLER. Mr. Chair, I yield myself the balance of my time.

If anything, this discussion about collective bargaining shows that arbitration can be a fair and reasonable process when there is actual choice on both sides of the tracks. But for the majority, the overwhelming majority of nonunion private sector workers, that choice simply does not exist.

This amendment fails to comprehend these critical distinctions between collective bargaining and the take-it-or-leave-it arbitration clauses that the majority of workers face. And it fails to recognize that restoring equity and choice is exactly what the FAIR Act claims to do. You cannot compare apples and oranges, as the gentleman from Ohio (Mr. JORDAN) tried to do.

Finally, as the AFL–CIO explains, this amendment, ''would also be directly contrary to the intent of Congress in both the Wagner and Taft-Hartley Acts, which encourage the practice of collective bargaining and the resolution of contract disputes through arbitration.''

And, again, arbitration voluntarily agreed to by the workers through their democratically elected union is not the same as coercive forced arbitration.

Mr. Chair, accordingly, I urge my colleagues to oppose the amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Ohio (Mr. JORDAN).

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

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

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio will be postponed.

AMENDMENT NO. 2 OFFERED BY MRS. FLETCHER

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in part B of House Report 116–210.

Mrs. FLETCHER. Mr. Chairman, I have an amendment at the desk, and I ask for its consideration.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end, add the following:

SEC. 5. RULE OF CONSTRUCTION.

Nothing in this Act, or the amendments made by this Act, shall be construed to prohibit the use of arbitration on a voluntary basis after the dispute arises.

The Acting CHAIR. Pursuant to House Resolution 558, the gentlewoman from Texas (Mrs. FLETCHER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

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

Mr. Chair, I offer this amendment to the bill for the simple purpose of clarifying its scope and applicability.

The FAIR Act prohibits the enforcement of mandatory pre-dispute arbitration provisions—forced arbitration—in contracts involving consumer, employment, antitrust, and civil rights disputes.

This amendment makes clear that the FAIR Act applies to pre-dispute forced arbitration in these disputes, and not to voluntary arbitration that is agreed to by the parties in these cases after a dispute occurs.

It does not apply, as some have suggested, to commercial cases between businesses; it does not eliminate arbitration altogether, and there are good reasons for this.

There is certainly a role for the arbitration of disputes and other forms of alternative dispute resolution. From my own experience as a lawyer, I understand the utility arbitration can provide for businesses to resolve disputes, especially in the context of an ongoing business relationship.

That is not what the FAIR Act is about. The FAIR Act is about restoring access to justice for the people.

It is for consumers and workers.

It is for people whose civil rights have been violated.

It is for the small business people who have antitrust claims.

It is for the millions of Americans who are denied their rights to seek justice and accountability today because of forced arbitration.

This amendment makes clear that the act does not prohibit the option to participate in arbitration after a dispute has arisen provided that the agreement to arbitrate the dispute is voluntary and the parties actually consent.

This amendment anticipates that, for reasons of their own choosing, some parties may elect to participate in arbitration after a dispute has arisen on a voluntary basis and this act does not prohibit that choice. The amendment acknowledges the right to consent, but it must be truly voluntary.

When an agreement to arbitrate is a contract of adhesion, it is not voluntary. When an agreement to arbitrate is not disclosed, it is not voluntary. When an agreement to arbitrate is a condition of employment, it is not voluntary. When an agreement to arbitrate is forced, it is not voluntary. But when actual consent is given after a dispute arises, parties with full knowledge may choose to arbitrate.

Fundamentally, the FAIR Act and this amendment protects the freedom to contract, the freedom of choice, and the freedoms granted in our Constitution including, importantly, its 7th Amendment.

Mr. Chair, it is for these reasons that I urge my colleagues to support this amendment, and I reserve the balance of my time.

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

The Acting CHAIR. The gentleman from North Dakota is recognized for 5 minutes.

Mr. ARMSTRONG. Mr. Chair, I appreciate the sentiment, but the amendment is unnecessary. The bill's terms clearly already do nothing to prevent post-dispute arbitration agreements from being negotiated or enforced, in theory.

Honestly, the amendment really does nothing. It is a fig leaf designed to hide the mischief that is actually being done by the bill. It pretends to preserve the possibility of negotiating agreements to arbitrate once disputes arise, but if this bill succeeds in wiping out pre-dispute arbitration agreements, parties will almost never ever arbitrate. And the simple reason is, if one person really wants to be in arbitration, the other person will be really disadvantaged by arbitration.

In order to have a post-dispute arbitration, you need both parties to agree. And the simple fact is, that once a dispute arises, there is always going to be a benefit for one of the parties to go to court. And most of the time, it is not going to be the consumer or the employee that sees these advantages. It will be a company or an employee with the resources to overwhelm a consumer or an employee in court with discovery, procedure, and expensive lawyer fees.

And far too often, just the prospect of that will be enough to dissuade a consumer or employee from even filing a lawsuit to begin with, which means that the parties with the deepest pockets will just be able to get off scot-free.

The reality is, in most disputes, no matter what venue you are in—you can be in Federal court, you can be in State court, you can be in arbitration—there is going to be unequal bargaining power. Pre-dispute arbitration gives people with less financial means in your basic employment dispute, contractual dispute, or consumer dispute, a venue that is affordable, gets done in a reasonable amount of time, and allows them to move through.

Now, if you are a company and you are not forced into that in pre-dispute, why in the world would you ever agree to go back there?

Mr. Chair, I urge opposition to this amendment, and I yield back the balance of my time.

Mrs. FLETCHER. Mr. Chair, the gentleman from North Dakota's argument makes the argument for the FAIR Act, because the essential point there is about the ability to contract with equal bargaining power.

And we have heard debate this entire morning about the imbalance that exists with these contracts of adhesion, these contracts that require arbitration as a term of employment, and that there is also somebody who benefits.

And I think what we have seen is exactly what the FAIR Act is designed to prevent. The idea of equal bargaining power is not something we see in these consumer cases, in these employment cases, and that is exactly what we are here to protect.

However, we have also seen the argument that this is the end of arbitration, and that is simply not the case. There is a place in our system for people who elect to arbitrate, but it must be with equal bargaining power, and it must be with full information and voluntary compliance.

The amendment simply makes clear that the FAIR Act does not prohibit arbitration on a voluntary basis after a dispute arises and can't be construed to do so.

Mr. Chair, it is for these reasons that I urge my colleagues to support the amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Texas (Mrs. FLETCHER).

The amendment was agreed to.

AMENDMENT NO. 1 OFFERED BY MR. JORDAN

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, the unfinished business is the demand for a recorded vote on amendment No. 1 printed in part B of House Report 116–210 offered by the gentleman from Ohio (Mr. JORDAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 253, not voting 26, as follows:

[Roll No. 539]

AYES—161

Aderholt
Allen
Amash
Amodei
Armstrong
Arrington
Baird
Balderson
Banks
Barr
Biggs
Bilirakis
Bishop (NC)
Bishop (UT)
Brady
Brooks (AL)
Brooks (IN)
Buchanan
Bucshon
Budd
Burchett
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Cline
Cloud
Cole
Collins (GA)
Collins (NY)
Comer
Conaway
Crenshaw
Curtis
Davidson (OH)
DesJarlais
Duncan
Dunn
Estes
Ferguson
Fleischmann
Flores
Fortenberry
Foxx (NC)
Fulcher
Gaetz
Gallagher
Gianforte
Gibbs
Gohmert
Gooden
Gosar
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Green (TN)
Grothman
Guthrie
Harris
Hartzler
Hern, Kevin
Herrera Beutler
Hice (GA)
Hill (AR)
Holding
Hollingsworth
Hudson
Huizenga
Hunter
Hurd (TX)
Johnson (LA)
Johnson (OH)
Johnson (SD)
Jordan
Joyce (PA)
Kelly (MS)
Kelly (PA)
King (IA)
Kustoff (TN)
LaHood
LaMalfa
Lamborn
Latta
Lesko
Long
Loudermilk
Lucas
Luetkemeyer
Marshall
Massie
McCarthy
McCaul
McClintock
McHenry
Meadows
Meuser
Mitchell
Moolenaar
Mooney (WV)
Mullin
Murphy (NC)
Newhouse
Norman
Nunes
Olson
Palazzo
Palmer
Pence
Perry
Posey
Ratcliffe
Rice (SC)
Riggleman
Roby
Rodgers (WA)
Roe, David P.
Rogers (AL)
Rogers (KY)
Rooney (FL)
Rose, John W.
Rouzer
Roy
Rutherford
Scalise
Schweikert
Scott, Austin
Sensenbrenner
Simpson
Smith (MO)
Smith (NE)
Smucker
Spano
Steube
Stewart
Stivers
Taylor
Thompson (PA)
Thornberry
Timmons
Tipton
Upton
Wagner
Walberg
Walden
Walker
Walorski
Waltz
Watkins
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Wright
Yoho

NOES—253

Adams
Aguilar
Allred
Axne
Bacon
Barragán
Bass
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Bost
Boyle, Brendan F.
Brindisi
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Carbajal
Cárdenas
Carson (IN)
Cartwright
Case
Casten (IL)
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Cisneros
Clark (MA)
Clarke (NY)
Clay
Cleaver
Cohen
Connolly
Cook
Cooper
Correa
Costa
Courtney
Cox (CA)
Craig
Crist
Crow
Cuellar
Davids (KS)
Davis (CA)
Davis, Rodney
Dean
DeFazio
DeGette
DeLauro
DelBene
Delgado
Demings
DeSaulnier
Deutch
Diaz-Balart
Dingell
Doggett
Doyle, Michael F.
Emmer
Engel
Escobar
Eshoo
Espaillat
Evans
Finkenauer
Fitzpatrick
Fletcher
Foster
Frankel
Fudge
Gabbard
Gallego
Garamendi
Garcia (IL)
Garcia (TX)
Golden
Gomez
Gonzalez (OH)
Gonzalez (TX)
Gottheimer
Green, Al (TX)
Griffith
Grijalva
Guest
Haaland
Harder (CA)
Hastings
Hayes
Heck
Higgins (LA)
Higgins (NY)
Hill (CA)
Himes
Horn, Kendra S.
Horsford
Houlahan
Hoyer
Jayapal
Jeffries
Johnson (GA)
Johnson (TX)
Joyce (OH)
Kaptur
Katko
Keating
Kelly (IL)
Kennedy
Khanna
Kildee
Kilmer
Kim
Kind
Kinzinger
Kirkpatrick
Krishnamoorthi
Kuster (NH)
Lamb
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee (CA)
Lee (NV)
Levin (CA)
Levin (MI)
Lewis
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Luján
Luria
Lynch
Malinowski
Maloney, Carolyn B.
Maloney, Sean
Mast
Matsui
McAdams
McBath
McCollum
McGovern

McKinley
McNerney
Meeks
Meng
Miller
Moore
Morelle
Moulton
Mucarsel-Powell
Murphy (FL)
Nadler
Napolitano
Neal
Neguse
Norcross
Norton
O'Halleran
Ocasio-Cortez
Omar
Pallone
Panetta
Pappas
Pascrell
Payne
Perlmutter
Peters
Peterson
Phillips
Pingree
Plaskett
Pocan
Porter
Pressley
Price (NC)
Quigley
Raskin
Reschenthaler
Rice (NY)
Richmond
Rose (NY)
Rouda
Roybal-Allard
Ruiz
Ruppersberger
Rush
Ryan
Sablan
Sánchez
Sarbanes
Scanlon
Schakowsky
Schiff
Schneider
Schrader
Schrier
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shalala
Sherman
Sherrill
Sires
Slotkin
Smith (NJ)
Smith (WA)
Soto
Spanberger
Speier
Stanton
Stauber
Stefanik
Steil
Stevens
Suozzi
Swalwell (CA)
Takano
Thompson (CA)
Titus
Tlaib
Tonko
Torres (CA)
Torres Small (NM)
Trahan
Trone
Turner
Underwood
Van Drew
Vargas
Veasey
Vela
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson Coleman
Welch
Wexton
Wild
Wilson (FL)
Yarmuth
Young
Zeldin

NOT VOTING—26

Abraham
Babin
Beatty
Bergman
Buck
Cheney
Clyburn
Crawford
Cummings
Cunningham
Davis, Danny K.
Duffy
González-Colón (PR)
Hagedorn
Huffman
Jackson Lee
Keller
King (NY)
Marchant
McEachin
Radewagen
Reed
San Nicolas
Shimkus
Thompson (MS)
Weber (TX)

□ 1056

Messrs. JOHNSON of Georgia, O'HALLERAN, Mrs. HAYES, Messrs. LYNCH and ROSE of New York changed their vote from ''aye'' to ''no.''

Messrs. HOLDING, MULLIN, and PALAZZO changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. HIGGINS of Louisiana. Mr. Chair, on rollcall No. 539, I mistakenly voted "no" when I intended to vote "yes."

The Acting CHAIR (Mr. BUTTERFIELD). The question is on the amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The Acting CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PETERS) having assumed the chair, Mr. BUTTERFIELD, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1423) to amend title 9 of the United States Code with respect to arbitration, and, pursuant to House Resolution 558, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the amendment reported from the Committee of the Whole?

If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. ARMSTRONG. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, this 5-minute vote on passage of the bill will be followed by a 5-minute vote on agreeing to the Speaker's approval of the Journal, if ordered.

The vote was taken by electronic device, and there were—ayes 225, noes 186, not voting 23, as follows:

[Roll No. 540]

AYES—225

Adams
Aguilar
Allred
Axne
Barragán
Bass
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brindisi
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Carbajal
Cárdenas
Carson (IN)
Cartwright
Case
Casten (IL)
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Cisneros
Clark (MA)
Clarke (NY)
Clay
Cleaver
Cohen
Connolly
Cooper
Correa
Costa
Courtney
Cox (CA)
Craig
Crist
Crow
Davids (KS)
Davis (CA)
Dean
DeFazio
DeGette
DeLauro
DelBene
Delgado
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Engel
Escobar
Eshoo
Espaillat
Evans
Finkenauer
Fletcher
Foster
Frankel
Fudge
Gabbard
Gaetz
Gallego
Garamendi
García (IL)
Garcia (TX)
Golden
Gomez
Gonzalez (TX)
Gottheimer
Green, Al (TX)
Grijalva
Haaland
Harder (CA)
Hastings
Hayes
Heck
Higgins (NY)
Hill (CA)
Himes
Horn, Kendra S.
Horsford
Houlahan
Hoyer
Jayapal
Jeffries
Johnson (GA)
Johnson (TX)
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kildee
Kilmer
Kim
Kind
Kirkpatrick
Krishnamoorthi
Kuster (NH)
Lamb
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee (CA)
Lee (NV)
Levin (CA)
Levin (MI)
Lewis
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Luján
Luria
Lynch
Malinowski
Maloney, Carolyn B.
Maloney, Sean
Matsui
McAdams
McBath
McCollum
McGovern
McNerney
Meeks
Meng
Moore
Morelle
Moulton
Mucarsel-Powell
Murphy (FL)
Nadler
Napolitano
Neal
Neguse
Norcross
O'Halleran
Ocasio-Cortez
Omar
Pallone
Panetta
Pappas
Pascrell
Payne
Perlmutter
Peters
Phillips
Pingree
Pocan
Porter
Pressley
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rose (NY)
Rouda
Roybal-Allard
Ruiz
Ruppersberger
Rush
Ryan
Sánchez
Sarbanes
Scanlon
Schakowsky
Schiff
Schneider
Schrader
Schrier
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shalala
Sherman
Sherrill
Sires
Slotkin
Smith (NJ)
Smith (WA)
Soto
Spanberger
Speier
Stanton
Stevens
Suozzi
Swalwell (CA)
Takano
Thompson (CA)
Titus
Tlaib
Tonko
Torres (CA)
Torres Small (NM)
Trahan
Trone
Underwood
Van Drew
Vargas
Veasey
Vela
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson Coleman
Welch
Wexton
Wild
Wilson (FL)
Yarmuth

NOES—186

Aderholt
Allen
Amash
Amodei
Armstrong
Arrington
Bacon
Baird
Balderson
Banks
Barr
Biggs
Bilirakis
Bishop (NC)
Bishop (UT)
Bost
Brady
Brooks (AL)
Brooks (IN)
Buchanan
Bucshon
Budd
Burchett
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Cline
Cloud
Cole
Collins (GA)
Collins (NY)
Comer
Conaway
Cook
Crenshaw
Cuellar
Curtis
Davidson (OH)
Davis, Rodney
DesJarlais
Diaz-Balart
Duncan
Dunn
Emmer
Estes
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx (NC)
Fulcher
Gallagher
Gianforte
Gibbs
Gohmert
Gonzalez (OH)
Gooden
Gosar
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Green (TN)
Griffith
Grothman
Guest
Guthrie
Harris
Hartzler
Hern, Kevin
Herrera Beutler
Hice (GA)
Higgins (LA)
Hill (AR)
Holding
Hollingsworth
Hudson
Huizenga
Hunter
Hurd (TX)
Johnson (LA)
Johnson (OH)
Johnson (SD)
Jordan
Joyce (OH)
Joyce (PA)
Katko
Kelly (MS)
Kelly (PA)
King (IA)
Kinzinger
Kustoff (TN)
LaHood
LaMalfa
Lamborn
Latta
Lesko
Long
Loudermilk
Lucas
Luetkemeyer
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
Meadows
Meuser
Miller
Mitchell
Moolenaar
Mooney (WV)
Mullin
Murphy (NC)
Newhouse
Norman
Nunes
Olson
Palazzo
Palmer
Pence
Perry
Peterson
Posey
Ratcliffe
Reschenthaler
Rice (SC)
Riggleman
Roby
Rodgers (WA)
Roe, David P.
Rogers (AL)
Rogers (KY)
Rooney (FL)
Rose, John W.
Rouzer
Roy
Rutherford
Scalise
Schweikert
Scott, Austin
Sensenbrenner
Simpson
Smith (MO)
Smith (NE)
Smucker
Spano
Stauber
Stefanik
Steil
Steube
Stewart
Stivers
Taylor
Thompson (PA)
Thornberry
Timmons
Tipton
Turner
Upton
Wagner
Walberg
Walden
Walker
Walorski
Waltz
Watkins
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Wright
Yoho
Young
Zeldin

NOT VOTING—23

Abraham
Babin
Beatty
Bergman
Buck
Cheney
Clyburn
Crawford
Cummings
Cunningham
Davis, Danny K.
Duffy
Hagedorn
Huffman
Jackson Lee
Keller
King (NY)
Marchant
McEachin
Reed
Shimkus
Thompson (MS)
Weber (TX)

□ 1106

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BERGMAN. Mr. Speaker, on rollcall Votes 539 and 540, I am not recorded because I was not present in the House. Had I been present, I would have voted: "nay" on rollcall No. 539 and "nay" on rollcall No. 540.

PERSONAL EXPLANATION

Mr. CUNNINGHAM. Mr. Speaker, on September 19 and 20, 2019, I was absent from the House chamber. I returned to my district in South Carolina to attend to a family matter. Accordingly, I was unable to vote on three legislative measures on the floor. Had I been present and voting, I would have voted as follows: "aye" on rollcall No. 536: H. Res. 564, On Motion Ordering the Previous Question on the Rule providing for consideration of H.R. 4378; "aye" on rollcall No. 537: H. Res. 564, On Passage of the Rule providing for consideration of H.R. 4378; "aye" on rollcall No. 538: H.R. 4378, On Passage, Making continuing appropriations for fiscal year 2020, and for other purposes; "nay" on rollcall No. 539: H.R. 1423, On Agreeing to the Amendment, Jordan #1 to the Forced Arbitration Injustice Repeal Act; and "aye" on rollcall No. 540: H.R. 1423, On Passage, the Forced Arbitration Injustice Repeal Act.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the question on agreeing to the Speaker's approval of the Journal, which the Chair will put de novo.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

PERMISSION FOR MEMBER TO BE CONSIDERED AS FIRST SPONSOR OF H.R. 463

Mr. GARAMENDI. Mr. Speaker, I ask unanimous consent that I may hereafter be considered to be the first sponsor of H.R. 463, a bill originally introduced by Representative Walter Jones from North Carolina, for the purposes of adding cosponsors and requesting reprintings pursuant to clause 7 of rule XII.

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

There was no objection.

REMOVAL OF NAMES OF MEMBERS AS COSPONSORS OF H.R. 3193

Mr. GARAMENDI. Mr. Speaker, I ask unanimous consent that the names of Representative KILDEE from Michigan and Representative LURIA from Virginia be removed as cosponsors of H.R. 3193, the Transportation Emergency Relief Funds Availability Act, of which I am the sponsor.

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

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. SCALISE. Mr. Speaker, I rise for the purpose of inquiring of the majority leader the schedule for the week to come.

Mr. Speaker, I yield to the gentleman from Maryland (Mr. HOYER), my friend.

Mr. HOYER. Mr. Speaker, I thank my friend for yielding.

On Tuesday, the House will meet at 12 p.m. for morning-hour debate, and 2 p.m. for legislative business, with votes postponed until 6:30 p.m.

I remind Members that is Tuesday, not Monday. We will not be in session on Monday.

On Wednesday and Thursday, the House will meet at 10 a.m. for morning-hour debate and 12 p.m. for legislative business.

On Friday, the House will meet at 9 a.m. for legislative business. Last votes of the week are expected no later than 3 p.m.

We will consider several bills under suspension of the rules, including H.R. 1595, the SAFE Banking Act of 2019, as amended. The complete list of suspension bills will be announced by the close of business today.

The House will consider H.R. 2203, the Homeland Security Improvement Act, and H.R. 3525, the U.S. Border Patrol Medical Screening Standards Act. These bills will improve how the Department of Homeland Security oversees border issues in a humane and responsible manner, including the care of children.

Members are of course advised that there is additional legislation that may come forward.

Mr. SCALISE. Mr. Speaker, I thank the gentleman for going through the schedule.

I know the gentleman joins me in extending our sincere condolences to our friend, my counterpart as the majority whip of the House, JIM CLYBURN, on the loss of his wife, Emily. They were married for 58 years, and were a wonderful family.

□ 1115

I know she had been battling for awhile and she is in a better place, but for our friend, I know it is a tough time.

I got to know his daughter Mignon, who served on the FCC for a number of years during the Obama administration, and she definitely learned from her mom and dad, just a wonderful person.

So, I am sure my friend would join me to extend our sincere condolences and our heartfelt prayers to our friend JIM CLYBURN and his whole family during this difficult time with the loss of his wife.

Mr. Speaker, I yield to the gentleman.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I know that Mr. CLYBURN and the Clyburn family very much appreciate his condolences and his remarks.

JIM CLYBURN and I have known each other for over half a century. His wife, Emily, he met during the course of the civil rights struggle. She, too, was a drum major for justice, as JIM CLYBURN has been.

She has, as the gentleman pointed out, been facing health challenges for some period of time. And, yes, she is in a better place. But as one who has lost his spouse, I know what a difficult time this is for JIM CLYBURN.

I would let all the Members know that there will be a service in Columbia, a wake, on Sunday at 5 o'clock, and the funeral will be in Charleston at 11 a.m. I intend to be in attendance. Any Member, I know, would be welcome to be there as well.

JIM CLYBURN has been a giant in this body. He has been a leader on our side of the aisle now for almost 20 years, and before that, a leader of the Congressional Black Caucus and somebody who has been a strong voice, particularly for rural communities and for people who are challenged either because of the color of their skin or their economic status.

I know that Emily was his partner in those efforts, as the gentleman knows. She was a wonderful, warm woman and will be greatly missed. But the gentleman's observation that she is in a better place is one with which I agree, and I know that JIM CLYBURN agrees as well.

Mr. Speaker, I thank the gentleman for his comments. I know that all Members join us in sending JIM CLYBURN and the family our deepest sympathy and condolences.

Mr. SCALISE. Mr. Speaker, our hearts will be with him during that ceremony and service, and we will all be there for him to lean on us during these next months. At times it is going to be difficult, but we appreciate the fact that he is going to continue to be with us, but probably be leaning on us even more.

A wonderful, wonderful family.

Mr. Speaker, I would like to shift gears and ask the gentleman about the USMCA trade deal. I know there have been some more negotiations with Ambassador Lighthizer, and just last week, he had sent a letter in response to some of the issues that were raised by the Speaker and her team that is working on USMCA. I know he worked in those weeks after the initial requests were made to try to see how each of those can be addressed, hopefully in a way that allows us to move forward with an actual vote on the House floor on USMCA.

Mr. Speaker, I just want to inquire if the gentleman has any timetable or update on where we are in those talks.