

percentage assessment that determines our annual UN dues. That mistake is likely to cost us hundreds of millions of dollars in lower dues payments. Assessments were renegotiated last fall, and we have had to ask to reopen those negotiations. And now it is very unlikely that we can succeed in lowering our assessment from 25 to 20 percent, as called for in this conference report.

By the year 2000, Japan's assessment will be 20 percent. Surely the United States, which has a larger economy than Japan's will be expected to pay more than Japan. Other Asian countries, which had expected to take on larger assessments, are no longer able to because of the Asian financial crisis. At best, we're likely to get our assessment lowered to 22 percent, still saving taxpayers millions of dollars every year, but only if we pay our arrearages.

The simply truth is that we will continue to suffer a loss of influence and credibility in the United Nations if we continue to fail to pay these arrearages. I see no reason why this critical international responsibility should be held hostage to an extension of our domestic abortion debate. I urge my colleagues to defeat the conference report.

Mr. NADLER. Mr. Speaker, the State Department Authorization bill would place an international gag rule on organizations that use their own non-U.S. funds to provide abortion services. It also threatens to cut off \$29 million from our international family planning efforts if the President attempts to defer the ban on funding to organizations that use their own private funds for abortion services. This policy is clearly unacceptable, and is not supported by the President or by the American people.

Why? Because the American people understand that family planning is necessary, successful, and addresses a critical need. According to the World Health Organization, nearly 600,000 women die each year of causes related to pregnancy and childbirth. International family planning efforts have been remarkably successful and have saved women's lives. I am shocked that proponents of these so-called "Mexico City" restrictions claim that our family planning programs actually increase the number of abortions, when, in fact, the exact opposite is true. Studies show that our efforts, as part of an international strategy, have prevented more than 500 million unintended pregnancies.

International family planning improves women's health, helps reduce poverty, and protects our global environment. Our family planning programs save lives, and they should be continued without unnecessary restrictions.

There is no need to impose this type of gag rule on organizations that use their own money to further their objectives and to make women's lives safer. The "Mexico City" restrictions are pernicious, unnecessary, and harmful. If this bill were to be enacted, it would severely limit family planning efforts and simply result in more unwanted pregnancies, more fatalities among women, and more abortions. I strongly oppose these provisions of the State Department Authorization bill.

Mr. CALLAHAN. Mr. Speaker, I rise to address several aspects of this legislation which authorize appropriations for activities under the jurisdiction of the Subcommittee on Foreign Operations, which I chair.

First, I would like to congratulate the gentleman from New York for his hard work on

this conference report. He has produced a product that deserves our full support.

Sections 1104 and 1231 of the conference report authorize funds for International Organizations and Programs and for Migration and Refugee Affairs. There are several sub-authorizations within these sections. However, the level appropriated for the accounts in 1989 is such that these subauthorizations will not result in the earmarking of funds for the purposes specified. For fiscal year 1999, I do not feel bound by the limitations imposed by the authorizations for specific activities within these accounts. The programs mentioned may all be meritorious, but they must receive funding on the basis of a balance among all the programs within the appropriations accounts.

Section 1815 of the conference report would earmark not less than \$2,000,000 in fiscal years 1998 and 1999 for activities in Cuba. Despite the fact that the State Department has indicated that it will be obligating at least this level of funds in fiscal year 1998, this earmark does not conform with the proper roles of each committee in the allocation of appropriated funds. It is the role of the International Relations Committee to establish policy and to place a ceiling on the amount of funds that should be made available for appropriations accounts and activities. However, the allocation of funds within those authorization levels is reserved for the Appropriations Committee.

I must respectfully inform the House, and the authorization committee, that I will not be bound by such earmarks or limitations when I make my recommendations for fiscal year 1999 for the Foreign Operations appropriations act.

Once again, I congratulate the gentleman from New York for his work on this legislation. Aside from these minor matters, it is a conference report that deserves our full support.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Illinois (Mr. HYDE) for his remarks, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KINGSTON). All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just adopted.

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

There was no objection.

EXPRESSION FOR APPRECIATION FOR HARD WORK OF MEMBERS ON CONFERENCE REPORT

Mr. DELAY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

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

There was no objection.

Mr. DELAY. Mr. Speaker, I appreciate this vote, and I appreciate the work of the chairman of the Committee on International Relations, and I appreciate all the hard work that has been put into this bill. Our Members are very appreciative of all of the cooperation of all of the Members on the floor.

We think this is an excellent bill, and we want to give credit where credit is due to the Members of the House, and particularly the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on the Judiciary. The chairman of the Committee on International Relations has done a great service for this House, and the gentleman is to be commended for a bill that is consolidating the State Department and bringing some very needed reforms.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank our distinguished whip for his kind remarks, and I just want to remind our Members that there are a number, as the gentleman from Illinois (Mr. HYDE) indicated, of significant provisions in the measure we have just adopted.

We consolidated foreign affairs agencies into the State Department, something that we have been advocating for a number of years, something the Senate has been advocating. We provided \$38 million in assistance to the democratic opposition in Iraq, in attempting to move Iraq away from the violations that have occurred with regard to the biological and chemical weapons. We strictly conditioned U.N. arrearage payments on a number of internal reforms that we are seeking. We initiated long-term reforms of the United Nations; that is the Helms-Burton package. We are saving taxpayers money by reducing the United States assessment at the United Nations. And most importantly, we initiated the McBride fair employment principles for the troubles in Northern Ireland.

Mr. Speaker, we have accomplished a great deal by this measure.

Mr. DELAY. Mr. Speaker, reclaiming my time, I thank the gentleman for his remarks, and I think this is a wonderful day for the House of Representatives in reflecting this vote.

PROVIDING FOR CONSIDERATION OF H.R. 3246, FAIRNESS FOR SMALL BUSINESS AND EMPLOYEES ACT OF 1998

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 393 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the

House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3246) to assist small businesses and labor organizations in defending themselves against government bureaucracy; to ensure that employees entitled to reinstatement get their jobs back quickly; to protect the right of employers to have a hearing to present their case in certain representation cases; and to prevent the use of the National Labor Relations Act for the purpose of disrupting or inflicting economic harm on employers. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. No amendment shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as 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 in the House or in the Committee of the Whole. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. KINGSTON). The gentleman from California (Mr. DREIER) is recognized for 1 hour.

(Mr. DREIER asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. DREIER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from south Boston (Mr. MOAKLEY), my very good friend, who I am happy to say has just arrived in the Chamber, and pending that, I yield myself such time as I may consume. Mr. Speaker, all time yielded will be for debate purposes only.

□ 1645

Mr. Speaker, this rule makes in order H.R. 3246, the Fairness for Small Business and Employees Act of 1998, under a structured rule providing for an hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce.

The rule makes in order one amendment by the chairman of the Commit-

tee on Education and the Workforce, offered by the gentleman from Pennsylvania (Mr. GOODLING). The rule provides that the amendment shall be considered as read and debatable for 20 minutes, equally divided and controlled by the gentleman from Pennsylvania (Mr. GOODLING) and an opponent.

The amendment shall not be subject to amendment, and shall not be subject to a demand for a division of the question. Further, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, although this is a structured rule, it would also be correct to characterize it as a very fair rule. As Members know, H.R. 3246 amends a broad cross-section of the National Labor Relations Act. The Committee on Rules required Members to prefile their amendments in advance, in an effort to ensure that the House would have a focused debate on the issues specific to this legislation.

Four amendments were filed with the Committee on Rules, and of those, three were actually withdrawn. In fact, two amendments filed by the ranking minority member of the Committee on Education and the Workforce, the gentleman from Missouri (Mr. CLAY), were withdrawn as a result of a motion offered by the gentleman from Massachusetts (Mr. MOAKLEY), which the Committee on Rules adopted by a voice vote. Those two amendments would have added 20 minutes and 60 minutes, respectively, to the debate.

Mr. Speaker, I want to applaud the gentleman from Pennsylvania (Chairman GOODLING) and the gentleman from Illinois (Mr. FAWELL), the chairman of the Subcommittee on Employer-Employee Relations, for their very thoughtful work on this bill in moving it forward.

If enacted, the bill will end abusive practices against workers by organized labor and the Federal bureaucracy. It will level the playing field for small businesses, small unions, and employees by creating an impartial National Labor Relations Board.

It will also end the practice of what is known as salting, whereby professional agents and union employees are sent in to nonunion workplaces under the guise of seeking employment, only to inflict harm on those employers.

So, Mr. Speaker, let me say, this is, I believe, a very fair and balanced structured rule. I urge my colleagues to support this measure, which makes in order this fair and commonsense bill which will provide relief for small businesses, for labor organizations, and employees.

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

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

Mr. Speaker, my Republican colleagues have not named this bill very well. They call it the Fairness for Small Business and Employees Act, but it is neither fair, nor is it for small businesses.

Mr. Speaker, I urge my colleagues to oppose this rule and oppose the bill. This is bad news for American workers, particularly construction workers, and it seriously undercuts the National Labor Relations Board. This bill hurts workers' rights to bargain collectively by allowing businesses to refuse to hire or even fire people who have been members of unions or who have worked in union shops.

Let me repeat this, Mr. Speaker. This bill allows employers to refuse to hire people they suspect might be affiliated with a union. In other words, Mr. Speaker, it allows businesses to fire workers who might report unlawful conduct, but it allows businesses to keep hiring outside union busting consultants. That is all right.

Keep in mind, Mr. Speaker, that these so-called union organizers do a good day's work. They show up on time. They work hard. They follow the rules. They are not standing around the water coolers passing out leaflets all day. They do their jobs satisfactorily. If they do their job satisfactorily, Mr. Speaker, they should not be fired for union activities or affiliations. After all, Mr. Speaker, these people come to organize employees, not to eliminate their jobs, as my Republican colleagues will imply.

But, because some employers fear the power of collective bargaining, they want to be able to refuse to hire someone or even fire someone for suspicious siding with the unions. This bill allows them to do that, Mr. Speaker, and that is patently wrong.

It also gives employers a powerful tool to slow down workers' choice of unions. This bill makes taxpayers pay the legal fees under the National Labor Relations Act whenever the business wins. Mr. Speaker, making taxpayers pay, even in cases where the National Labor Relations Board's position was substantially justified, is in violation of the "American rule" under which each party to a suit pays their own costs.

There is no reason to think that the NLRB is bringing up frivolous cases. In fact, Mr. Speaker, last year the NLRB won 83.7 percent of the cases which went to the courts on appeals, so they are not just taking any old case lying around. When they do take a case, they prosecute it very well.

Perhaps, Mr. Speaker, that is the problem. Back in 1935, the National Labor Relations Act was enacted to encourage the practice and procedure of collective bargaining. But because "unions are essential to give laborers opportunity to deal on an equality with their employer," in other words, collective representation, it promotes American economic and social good.

Mr. Speaker, some of my colleagues talk about unions as if they were a dirty word. They imply that union organizers are only out to destroy businesses, and, Mr. Speaker, that absolutely is not true. Organized labor has just as much of an interest in keeping

people's jobs as employees who have an interest in keeping businesses running.

Collective bargaining is not a tool to destroy companies, and neither are unions. Unions give workers a voice at a time when the gap between rich and poor is ever widening, so we need all the unionizing we can get.

Unions raise living standards, they help close the wage gaps between women and people of color, they fight discrimination, and promote civil and human rights. But as it stands today, Mr. Speaker, about 10,000 working Americans get fired every year just because they support unions. This bill is just one more attack on the working people's rights.

Mr. Speaker, this bill is a giant step backwards in worker-employer relations. It gives employers even more ways to trample the rights of workers to organize and bargain collectively, and, along with this rule, should be defeated.

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

Mr. Speaker, all we are trying to do is make sure that small businesses have the exact same rights that the gentleman and I do in hiring practices in our offices.

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

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

Mr. MOAKLEY. I concur, Mr. Speaker. That is all I am here for, is to make sure that unions and collective bargaining agents and employers have all the same rights.

Mr. DREIER. Mr. Speaker, we are trying to protect the rights of employees, the small labor groups, organizations, and, of course, the backbone, the backbone of the United States of America, the small businessman and woman.

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

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, let us call this bill for what it is. It is shameful union-bashing. That is what it is. At least our Republican colleagues are consistent about being anti-worker, anti-union, anti-middle class persons. This amends the National Labor Relations Act to permit employers to refuse to hire a person who seeks employment in a nonunion firm to organize the workers into a union.

This is an anti-union bill. It is a bill to restrict workers from organizing, make no mistake about it. It makes it much more difficult to organize workers for better pay benefits, punishes workers for their affiliations with organizations outside of the workplace, and infringes on their right to free speech.

The President is going to veto this bill in its present form. The bill absolutely should be defeated. It is an abso-

lute disgrace. It overturns the unanimous 1995 Supreme Court decision that said "Employees or job applicants attempting to organize a workplace have the same employment protections as any other employee or applicant."

This, again, is shameful union bashing. This body should reject it, and I urge its defeat.

Mr. MOAKLEY. Mr. Speaker, I yield 2-3/4 minutes to the gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Speaker, the American tradition has been to organize all kinds of groups everywhere in this country. The National Labor Relations Act was intended to encourage people to organize on the job. This is a bill to discourage people from organizing.

What it says is that an employer can discriminate if the primary purpose of a person was furthering other employment or agency status. 50 percent of their intent is not to work for the employer. In that case, there is no protection.

Who is going to interpret this, and under what circumstances? If someone is fired, it is up to the NLRB to present a prima facie case showing that the employee applicant on whose behalf the charge of discrimination has been filed is not a person who has sought employment with such a primary purpose.

This is going to discourage organization. That is its purpose. There is reference in the report of the majority to paid union organizers. This applies to anybody, anybody at all, anybody who is seeking employment.

It also refers in the majority report to the fact that in some cases an employee may disrupt projects or disrupt the workplace. Look, in those cases the employer has the absolute right to discharge somebody if they disrupt a project or if they disrupt the workplace.

The real tip-off is right here on page 6. It says "These agents," and it does not have to be an agent, it says here that they often attempt to persuade bona fide employees to sign cards supporting the union. The purpose here is to try to discourage people from signing union cards.

Look, this is a deep disappointment to anybody who believes in the right of people to organize. This is class warfare. I have heard a lot of the Members of the majority talk on the floor about class warfare. That is what they are engaging in here, class warfare against working families, blue collar families, and increasingly, white collar families.

They should never have brought this to the floor. It will never pass, if it does the House, the Senate and be signed by the President. I do not know whose interest Members are trying to serve. It is not the interests of typical American working families.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the

distinguished gentleman from Naperville, Illinois (Mr. FAWELL), chairman of the subcommittee.

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I will not take a great deal of time. I think that some kind of reply to these rather exaggerated statements that have already been made by the Members of the other side of the aisle is in order.

Mr. Speaker, we have four bills here that are included in one termed the Fairness for Small Business Act. From my viewpoint, and I think when we have the debate here we will find that we have relatively benign and very reasonable suggestions for improvement that will be good for employers, be good for employees, be good for labor organizations also. Truth in employment is not something that is bad, and in this bill it deals with salters, and we do have a problem.

Not all unions are involved in salting tactics, but what we simply say, and we do not repeal the Supreme Court decision in Town and Country whatsoever. We simply say that if there is a bona fide applicant that is applying, then the full accord of the Town and Country Supreme Court decision takes effect. That applicant is deemed to be an employee.

□ 1700

In no way can the nonunion shop discriminate in any way against that applicant because the applicant may be a member of a union or even a paid employee of the union.

What we do say is that if that applicant is not a bona fide applicant, if the person is seeking employment with the employer and the primary purpose of seeking employment is furthering another employment, for instance if one is full-time employed by the union, as is oftentimes the case with the salters, then we will say that if the facts show that the primary reason, that is, more than 50 percent of the reason for one applying is because they want to further some other employment, then we are suggesting that is it not common sense that under those circumstances the NLRA would not cover that kind of a situation, and only in that kind of a situation.

Then we also suggest for the small businesspeople of America, and for the small labor organizations, too, that if when there is a charge brought to the National Labor Relations Board and the general counsel decides that there is going to be a complaint that is issued, whether it is an unfair labor practice against a labor organization or unfair labor practice against an employer, and we are talking about small employers and small labor organizations that have less than 100 employees and net worth of less than \$1.4 million, under those circumstances, if the small business or the labor organization actually wins the case, then the loser is the National Labor Relations Board which is financed by the taxpayers

against these small businesses and against these small unions, then under those circumstances we are suggesting that the small business should be reimbursed for the legal fees because they cannot afford to continually try to defend themselves and oftentimes as many as 40 or 50 unfair labor practice charges.

Then we have several other bills, too, that I am not going to go into at this time. But suffice it to say that if Members will look carefully at this, it does not do any credit to call this union bashing. These are bills that we have worked on for quite some time. There is some bipartisanship to it. There is some opposition, obviously, but it is not union bashing. And hopefully we can have a debate that can be heightened over that kind of rhetoric.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MILLER).

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this bill is the latest in a series of efforts by the Republican majority to undermine working men and women in this country. First the Republican Majority tries to silence the voices of rank-and-file Americans under their phony campaign finance reform bill. Now they want to give employers the power to hire and fire workers based solely on their support for union representation.

Again, we have very damaging legislation clothed in an innocuous title. This bill is called the Fairness for Small Business and Employees Act of 1998, but it is not fair, it is not limited to small businesses, and it certainly does nothing for employees.

Mr. Speaker, make no mistake about it, this bill permits employers to discriminate against workers on the basis of the worker's union support. It would permit and even encourage employers to interrogate applicants on their preferences for union representation and refuse to hire the applicants on that basis.

This bill overturns the unanimous 1995 Supreme Court decision. The Court said that a worker can be a company's employee and simultaneously work in support of union representation. But the Republican majority does not like the Supreme Court decision and they do not like labor unions so they plan to overturn the Court's decision with the passage of this bill.

The Republican majority says that this bill is necessary to prevent abuses by employers. This is nonsense. Employers already have more than enough power to control what goes on in the workplaces. Current law already provides that employers may prohibit union solicitation during working hours. Current law allows employers to prohibit their employees from even discussing the union during work time.

Current law allows companies to require employees to attend meetings, listen to campaign speeches and watch campaign videos. Current law allows employers to fire employees who refuse to listen or dare to ask questions in such captive-audience meetings.

Mr. Speaker, the message of this bill is that employers can never have enough power over their workers. The message of this bill is that employers' decisions to hire or fire employees can be based solely on that employee's beliefs and their desire to have a unionized workplace and their activities outside of nonworking hours. The message of this bill is regardless of how hard one works, how much they produce, how impeccable their record of service, they can be fired for wanting and seeking a better representation for themselves and their co-workers by having a union in the workplace.

Mr. Speaker, this bill is antidemocratic, it is antiworker, it is antiunion, and my colleagues ought to vote against it.

Mr. MOAKLEY. Mr. Speaker, I yield 2½ minutes to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Speaker, today I rise in strong opposition to this bill. If there were ever a bill written to bust the unions, this is it.

Working families organized unions to give themselves a voice and to protect their safety. Unions provide workers with peace of mind because they know their leadership at the negotiating table with management is necessary to get the highest possible wages, the best possible health care and pension benefits. Without these collective bargaining guarantees, working men and women will not be afforded a place at the bargaining table to ensure the highest possible living standard for themselves and their families.

Mr. Speaker, this bill takes three steps backwards. It reverses a key provision of the National Labor Relations Act which prohibits employers from discriminating against who they hire. What this bill says is that if an employer suspects a person is applying for a job to organize a union, then the applicant is out the door. Imagine the leeway an employer would have to turn away job applicants. An employer's convenient excuse not to hire a person of color, for example, is because that person might be a union representative. This bill would gut the National Labor Relations Act to the point of ineffectiveness.

Mr. Speaker, I understand the gentleman from Pennsylvania will offer an amendment to attempt to eliminate the ambiguity. The amendment states that any "bona fide" applicant will be protected under the NLRA. What subjective criteria would an employer use to determine who is a "bona fide" employee? This is ludicrous.

Mr. Speaker, this bill should not be on the floor. Job applicants should never be discriminated against if they

belong to a union, if they support a union, or if they want to participate in union organizing activities. This bill is a clear, shameless attempt to ban organized unions at nonunion workplaces. It is an attempt to deny collective bargaining rights to workers who want the right to organize.

Finally, this bill is an attempt to tear down the unanimous 1995 Supreme Court ruling that says that it is illegal to deny employment to a paid union organizer, or to fire that person, if the person applies for a job for the purposes of organizing a union in a non-union workplace.

Mr. Speaker, in closing I ask my colleagues to vote against this bill. Its purpose is to bust unions, to bust the people that are in them, and to weaken the labor laws which were written to improve the lives of America's working families. We should not allow it. Let us fight with all we have got.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Missouri (Mr. CLAY) the ranking member on the Committee on Economic and Educational Opportunities.

Mr. CLAY. Mr. Speaker, I rise in opposition to this rule. It is appalling that we would limit amendments on a bill that tramples the rights of millions of workers and their families. It is no exaggeration that this bill rips the heart out of the National Labor Relations Act and says a good deal about the priorities of the majority.

Rather than working on measures that will improve the lives of working families, this legislation would jeopardize the great progress the NLRA has made in providing workers with better wages, benefits, and working conditions.

The enactment of the historic National Labor Relations Act was prompted by a severe and violent labor unrest. Back then, labor laws were stacked against workers. Management had the law on its side. The courts readily gave them injunctive relief, and the police also used excessive force to break strikes.

The NLRA created a careful balance of rights for employees and employers. This bill guts that law which has brought so much opportunity and stability for working families and, incidentally, for employers.

Mr. Speaker, we should emphatically reject this rule and I urge its defeat.

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

Mr. Speaker, let me just respond briefly to the gentleman from Missouri (Mr. CLAY), my good friend from St. Louis, and say that we in the Committee on Rules planned to make every amendment that was submitted in order. And while I found the gentleman's remarks very interesting, the one little caveat, the gentleman did say that he did not want to offer amendments and that he just did not like the bill and did not want to do that when we were holding the hearing up in the Committee on Rules. I think

it is important for the RECORD to show that.

Mr. Speaker, we were prepared to make the gentleman's amendments in order and, in fact, we did make them in order, and the gentleman from Massachusetts (Mr. MOAKLEY) offered the motion that unanimously passed in the Committee on Rules that, in fact, allowed for the withdrawal of those two amendments which had been submitted by the gentleman from Missouri.

Mr. CLAY. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Speaker, if the gentleman is going to quote me, I wish he would quote me accurately.

Mr. DREIER. Mr. Speaker, I am happy to yield to the gentleman to clarify that.

Mr. CLAY. Mr. Speaker, what I said to the gentleman was, first of all, it is not an open rule because the committee required preprinting in the RECORD.

Mr. DREIER. Mr. Speaker, that is correct.

Mr. CLAY. Mr. Speaker, the second thing I said before the Committee on Rules is that no amendments whatsoever could make this bill worth passing by this body, and that is how I wanted to be quoted. We cannot fix this piece of trash that we are now deliberating.

Mr. DREIER. Mr. Speaker, reclaiming my time, if we had an open rule, the gentleman would not offer any amendments. And we have now a very well-structured rule that would have made the amendments that the gentleman talks about offering and did initially submit in the Committee on Rules in order, and he has chosen not to do that.

Mr. CLAY. Mr. Speaker, if the gentleman would continue to yield, it would have permitted other Members who might have wanted to offer amendments to offer them. I said in my opening statement before the Committee on Rules that this should not even be considered by this body.

Mr. DREIER. Mr. Speaker, we certainly welcome the opportunity for all of our colleagues to submit amendments to us, as we had announced earlier on the House floor. And so I think that we have pretty well clarified the issue.

Mr. CLAY. Mr. Speaker, we are going through an exercise in futility. We do not know whether the Senate will take it up or not, but we know that the President has declared that he will veto this piece of legislation, and my colleagues on the other side of the aisle do not have enough votes to override a veto.

Mr. DREIER. Mr. Speaker, again reclaiming my time, I think the very hard work of the gentleman from Illinois (Mr. FAWELL) and the gentleman from Pennsylvania (Mr. GOODLING) has brought forth thoughtful legislation, and we are going to work our will here in the House.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS), the minority whip.

Mr. LEWIS of Georgia. Mr. Speaker, this bill is a thinly veiled attack on America's organized workers. It is a Republican retribution bill. If one disagrees with the Republican majority, it will not be long before they are under investigation or under attack right here on the floor of the House of Representatives.

Mr. Speaker, this bill is not just an antiunion bill, it is un-American. This bill will allow employers to discriminate against and deny employment to workers based solely on their connection with a union.

What happened to freedom of speech? What happened to freedom of assembly? What happened to freedom of association? This bill is a naked attempt to intimidate American working families. It is a shame, it is a disgrace, and it has no place on this House floor.

I urge my colleagues to kill this bad un-American bill. Get it off of the floor, and send it to the trash heap dump right now.

□ 1715

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, any list of all-American, to-die-for rights will find the right to organize there at the top of the list. This bill tears up the right to organize, throws it in the dumpster.

How many violations of basic rights can the majority cram into one bill? The answer is, as many as it will take: freedom of speech, freedom of association, the right to organize, due process. How many ways are there to break unions? We will find a litany of them in this bill, including a brazen new employer right to discriminate against a worker who wants to organize a union in their company.

We want to start a union today? We already take our job in our hands. Ask the 10,000 who are unlawfully fired every year for union activity. We have blocked labor law reform to balance and bring fairness to labor law in this Chamber for 20 years. Now we are trying to kill what is left of the right to organize.

What do they want? We are already down to only 14 percent of workers organized in unions in this country. Have we forgotten that collective bargaining is a legitimate and time-honored part of the market system? In America, trying to organize a union should not make one a second-class citizen. Defeat this rule.

Mr. DREIER. Mr. Speaker, as we continue to pursue clarification on this issue, I yield 4 minutes, once again, to my friend, the gentleman from Illinois (Mr. FAWELL), chairman of the subcommittee.

Mr. FAWELL. Mr. Speaker, I hope we can clarify what the issues are.

I think I showed up in the wrong room. We are arguing about things that have nothing to do with the legis-

lation that we have before us, and we are being accused of union bashing and all that; and I hear my colleagues say that a union member can no longer be engaged in organizing, that there is no ability to be involved in collective bargaining and things of this sort.

All that we are trying to clarify here, while keeping in complete accord with the Supreme Court decision in Town and Country where it was made very clear that an employer cannot discriminate against any applicant on the basis of the fact that he may be affiliated with a union or that he may even be a paid employee of a union.

The Supreme Court said there is not inherently a conflict. Now, there could be a conflict, but not inherently a conflict. So all we are trying to do, and I think almost every reasonable person would say that, however, where we have an applicant where it can be said that the primary reason that he is there is not because he wants to really go to work for that employer; the primary reason he is there is because he wants to further the interests of another employer.

Now, that is all we are trying to say. And I think inherently an American concept that would, any one of us, as a Member of Congress, think is right that we should hire someone who wants to work for us, and the primary reason they want to work for us is because they want to further the interests of another employer. That is all that we are asking, and that is a factual question.

Bear in mind that when a complaint is lodged of an unfair labor practice and the issue is whether or not the applicant was bona fide or not, guess who will make the initial decision in that regard? It will be the National Labor Relations Board, the general counsel, that will determine whether there is even a cause of action or a complaint that should be issued. Now that is what we are talking about here.

There is an old saying, "If the facts are with you, pound the facts; if the law is with you, pound the law; but if you do not have either, pound the table." And I am hearing a lot of pounding of the table here, but I hope we can get back on something that is relevant.

Every once in a while, as an attorney, I would like to think that we are talking about the issue that happens to be before us. And we are straying way out. And my colleagues make good points with labor organizations I think but not much, I think, as far as common-sense debate.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, my friends on the other side of the aisle are trying to put a smiling face on this effort to hurt the American worker and talk about it in some kind of legalese because they are a bunch of lawyers. But nobody is going to be fooled around here. There are a lot of lawyers

over the years that tried to hurt the unions, and nobody is going to be fooled by what they are saying on the other side of the aisle here.

I remember a time when there were Republicans, particularly in the Northeast, who supported the average worker. But this Republican leadership is at war with America's workers. And since I consider workers the backbone of America, I think it is fair to say that the Republican leadership is at war with America and what it represents.

The Republican bill will allow employers to discriminate against people they suspect of trying to organize their workplace, and the employer can refuse to hire them, or fire them if they have already been employed, because of their union ties. If this country adopts the principle that union organizing is somehow against the public interest, then we are in serious trouble. America's strength is its middle class, and that middle class will dry up without organized labor. We will start to see lower wages, fewer pensions, and less health care benefits for workers.

Mr. Speaker, let us stop the union busting. If we do not provide the ability of workers to organize, we will be in serious trouble as a nation.

Mr. MOAKLEY. Mr. Speaker, may I inquire how much time remaining I have and the gentleman from California (Mr. DREIER) has?

The SPEAKER pro tempore (Mr. KINGSTON). The gentleman from Massachusetts (Mr. MOAKLEY) has 11 minutes remaining, and the gentleman from California (Mr. DREIER) has 18 minutes remaining.

Mr. MOAKLEY. Is the gentleman from California interested in yielding me any time, Mr. Speaker?

Mr. DREIER. Mr. Speaker, I do not think so.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ROTHMAN).

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

Mr. ROTHMAN. Mr. Speaker, I rise in opposition to the closed rule and the underlying antiworker bill. This debate is about fairness and the basic rights of hard-working Americans. If this bill passes, a worker could be fired just for trying to improve working conditions by organizing his or her fellow workers; or a worker may not even be hired in the first place, even though he or she is the most qualified applicant, just because the company executive thinks that that person might organize workers in the future.

In 1995, the U.S. Supreme Court said that it is unconstitutional for American executives to fire or discriminate against those who they want to silence. But these corporate executives refuse to take no for an answer, so they are trying to bring this bill to the floor.

H.R. 3246 defies what we fundamentally believe as Americans. It gives companies a license to discriminate against hard-working Americans who

only want to be able to speak out and stand up for their rights, who want a safe work environment and who want to express their desire for reasonable health care for themselves and their family, and a livable wage.

I strongly urge that my colleagues vote against this rule and the bill.

Mr. DREIER. Mr. Speaker, I yield 2½ minutes to my good friend, the gentleman from Dallas, Texas (Mr. SAM JOHNSON).

(Mr. SAM JOHNSON of Texas asked and was given permission to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, 22 million small businesses thrive in America, thanks to the free enterprise system. Today, the bill before us, the Fairness for Small Business and Employees Act, will further guarantee a fair and level playing field for all employees.

Many of America's small businesses are crippled by a tactic known as "salting." Salting has nothing to do with how our food tastes, believe me. But it will raise their blood pressure if they are a small business owner. Salting occurs when a union agent, which is known as a "salt," applies for a job in a nonunion workplace. The agent intentionally conceals his true objective, which is to sabotage the company and drive them out of business because it is nonunion.

Now, that is not American. I think my colleagues would agree. But some salts are straightforward and just come right out during the hiring process and interview and they identify themselves as union agents and they demand, if they are not fired, they will then file a grievance against the company. Either way, Mr. Speaker, this is criminal. It is not the American way.

Let me give an example of how salting destroyed a company in my home State of Texas. A nonunion electrical company in Dallas, about 30 employees, was hired to work on a school construction project. They advertised the jobs in the newspaper. The local electricians union saw the ad and paid union agents to go and apply for a job. The electrical contractor hired these agents, unaware that they had an ulterior motive. The agents then proceeded to destroy the company.

They staged small strikes by leaving the job for 3 or 4 hours, but returning just before they could be replaced. They also sabotaged the electrical work and went on to file close to 50 grievances against the company, eventually driving it out of business.

This bill will put a stop to malicious activity like this and protect small businesses in their efforts to hire loyal, hard-working employees. The small businesses will no longer fear the threat of destructive lawsuits filed by union agents.

This protection is long, long overdue. We are just asking, please, unions, obey the law, stop terrorizing working men and women. Small businesses are the backbone of this Nation and they

deserve honest, hard-working, and dedicated employees. They deserve protection against unscrupulous union practices.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to the rule on this legislation. The rule blocks any amendment that might solve the problems created by the bill. The fact is that current law provides that employers may dismiss any worker, including an organizer, if that worker does not work.

The Fawell bill specifically permits employers to refuse to hire workers who seek to organize the workplace. This legislation does not bring fairness to the workplace. It reverses the unanimous Supreme Court decision that stopped companies from firing or refusing to hire employees simply because they are union organizers.

By reversing their decision, this bill undoes 100 years of progress. It returns the United States to a time when the government had not learned the meaning of basic employee rights and helped unscrupulous robber barons trample workers' rights. It returns the United States to a no-balance existence between employees and their employers.

I have experienced what happens when this balance is not protected. My mother worked in a sweatshop in New Haven, Connecticut, during the early part of this century, slaving over a sewing machine for next to nothing. America must not return to this low point in our history. This bill will allow our firms to discriminate against hard-working men and women who are exercising their basic right to organize.

American families are struggling. They scramble to make ends meet. This bill gives workers an untenable choice: Lose job opportunity or give up your basic right to organize for decent pay, safer workplaces and a secure retirement. Either way, it is American families who lose.

Our Nation is stronger when everyone who wants to work is able to work. I urge my colleagues to reward work and vote against this rule.

Mr. MOAKLEY. Mr. Speaker, once again, may I inquire as to the remaining time?

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) has 8 minutes remaining, and the gentleman from California (Mr. DREIER) has 15½ minutes remaining.

Mr. DREIER. Mr. Speaker, I would be happy to yield time to my friend if he were to have maybe one more speaker and I would yield him one minute if that would be an arrangement.

Mr. MOAKLEY. The generosity of my colleague is just overwhelming.

Mr. DREIER. Do not say I did not offer.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GREEN).

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

Mr. GREEN. Mr. Speaker, I am glad to follow my colleague from north Texas. Although I have to admit the free enterprise system is great, what concerns me about this bill is, it removes the free enterprise system from the employees. The Fairness for Small Business Employees Act of 1998 more appropriately should be called the antiworker freedom bill of 1998.

This Republican bill allows businesses to fire or refuse to hire employees based on their union affiliation. What concerns me is that this will now be used, if I went and applied right now for a job in a printing company because maybe I had at one time been a union member and maybe still am, I could not be hired based on that purpose, Mr. Speaker. And that is what this bill is allowing us to do.

I call the sponsors' attention to page 4 of the bill, where it says "a bona fide employee applicant." That language in there will allow that person making that hiring to say, you are not a bona fide employee just because you happen to maybe have been a union member or maybe a current union member, even if you are not an organizer.

□ 1730

Furthermore, it would allow employers to discriminate against people who might try to organize in the workplace by simply refusing to hire them. How can you discriminate or even determine someone who might be a union member or former union member? These type of characteristics are not determined by physical characteristics, such as eye color or hair color. What is next? Maybe we are going to discriminate against individuals because maybe their religious beliefs maybe have more propensity to be a union member. Maybe Christian employees should not apply for businesses that maybe have a different religion. Is that what we are getting to in our country?

I think we are taking away the freedom of employees, in some cases the freedom of businesses to be able to say, "We're not going to hire you based on you may be a union organizer." I think that would leave such a gaping hole in our law. This rule does not allow us to amend that, Mr. Speaker. That is what is wrong with this rule.

This bill would overturn a unanimous 1995 Supreme Court decision which held that a union organizer employed by a company was entitled to the same protections as any other employee. My concern is that just because I am a union member and I may vote for a union if I worked at a nonunion company, this bill would allow me to be called a union organizer just as a union member. That is what this bill would allow us to do, Mr. Speaker.

Mr. FAWELL. Mr. Speaker, will the gentleman yield?

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

Mr. FAWELL. Mr. Speaker, I simply want to make it very, very, very clear that we do not in this legislation say

that the employer has any right to discriminate against an applicant because the applicant is a member of a union. We make it clear that the Supreme Court decision is not in any way affected. One can also even be a paid member of a union. There can be no discrimination.

Mr. DREIER. Mr. Speaker, I yield 1½ minutes to the gentleman from Naperville, IL (Mr. FAWELL).

Mr. FAWELL. Mr. Speaker, the point I want to make is that you can have all the union organizing you want. There can be no discrimination against you because you are a member of a union or were a member of a union. Nothing like that is touched.

Mr. GREEN. If the gentleman will let me respond, I will be glad to read him the section of the law that I have the concern about.

Mr. FAWELL. Let me just conclude by saying, the only person that we are concerned about is the person who is applying for a job primarily, "primarily," so that is more than half of his basic reason for applying is because he wants to further some other business. It does not even have to be a union necessarily. Then he is not a bona fide applicant. That is all we are saying here. I hope the rhetoric can be turned in that direction.

Mr. GREEN. If the gentleman will yield, I will be glad to read the section, because I may have done my apprenticeship as a printer but I also went to law school and learned how to read the law. "Nothing in this subsection shall be construed as requiring an employer to employ any person who is not a bona fide applicant." My concern is the definition of bona fide is going to be made by that person making that decision to hire that person. That is my concern.

Mr. FAWELL. The gentleman did not read the definition of a bona fide applicant. The definition of a bona fide applicant, we tried to bend over backwards by saying it is somebody who basically is there who really does not want to work there, he is primarily there in furtherance, primarily, the motivation is in furtherance of another agency or another employment. Bear in mind that it is the general counsel of the NLRB that has to make the initial decision as to whether that is true.

Mr. GREEN. Again I am concerned about how it works in the real marketplace.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Pleasantville, PA (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Speaker, I rise to support the rule. It is interesting as a former employer for 26 years and a small businessman myself, I guess I feel like I am suddenly the bad guy, that America's small businesses are some evil force that wants to hurt workers. If we are going to grow in this country and prosper, small business and workers and unions need to work together.

This bill addresses a practice of professional agents or union employees or

other people, a competitor's employees coming into a workplace under the guise of wanting employment when they are really there to cause problems. If you had invested everything you have into a business, you would be much more willing to discuss this issue fairly. If you had everything you owned on the line in a business and somebody was coming to work for you who was there for subversive reasons, whether it is organizing or it is your competitor to cause problems with your workers, and it happens both ways, you would be very much against that. That is not fair.

In chapter 2, we talk about the NLRB to conduct hearings to determine when it is appropriate to certify a single location or multiple locations. What is wrong with business having a hearing? What is wrong with public process? Letting both sides be heard to make a decision?

Chapter 3 deals about a time limit of when the rules need to come out, the rulings. What is wrong with the 1-year time limit? That just makes sense. That is what is usually done. When it is not done, it is usually done to hurt somebody.

The final provision in chapter 4 is legal cost. If you are a small business and a bigger entity is after you and has unlimited legal ability, they can break you. If it is found that you have been fair, they should pay your legal fees. If we do not give small business a decent break in America, we are not going to grow, the poorest of America will not get jobs, because that is where they start, in small businesses who are growing and prospering. That is the future of America.

Mr. MOAKLEY. Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. OWENS).

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

Mr. OWENS. Mr. Speaker, what we are saying is that we want working families to live by a different set of rules. We want two Americas. Working families and the people who represent working families have to live by a different set of rules.

We want a loyalty oath for a worker going into a business; they must take a loyalty oath. We do not ask people going into management to take loyalty oaths. We do not ask consultants who come to work for a company to take loyalty oaths. They might be spying on you, industrial spying might take place by an outside company. Nobody asks them to take some kind of loyalty oath and prove their intent.

What would happen if Bill Gates was to say to all the young people who are information technology workers that if you want to come in, that you have got to take a loyalty oath that you are not going to use your experience here to develop some business later? Half of them who go in go into the larger enterprises for the purpose of learning the ropes, then they go out and they

develop their own entrepreneurial activity. That is the American way. It is that way for businesspeople. Why should it not be that way for people who represent working people or working people?

You want a different set of rules. This is part of the Republican assault on working families. We had it in 1994. There was a Contract With America. In the Contract With America, they said nothing about attacking working families. But suddenly when they arrived, we found that they had a covert plan to attack unions and working families. They launched it. It was like Pearl Harbor. They launched a massive attack against unions and working families. The unions were not docile. They did not sit still and remain silent. They refused to take it. They fought back.

Now we have a regrouping. Speaker GINGRICH uses the metaphor often that politics is war without blood. Now you have the regrouping of all the forces. This Congress, they are now launching a new assault on working families. This is the first salvo of a new assault. There is coming later the Paycheck Fairness Act; they have got a whole line of things in respect to OSHA. Working families are still the target. This time it is going to be the Battle of the Bulge. They are going to go all out. The Paycheck Protection Act seeks to strangle, smother or stab unions in a way that they never would be able to recover. This is the opening salvo.

We have got a whole series of bills like this designed to create an America for working families and their representatives which has nothing to do with the America the rest of us live in. I appeal to the Republicans to call off their war against working families. Let us not go through it all over again. We went through it in 1994. All the salvos against OSHA, we beat them back. NLRB, you wanted to kill before by going through the appropriations process and lopping off half the budget. You had one attack after another that failed in the last Congress. Now you are launching a desperation attempt because unions would not take it, they fought back, and they are vocal, they are defending the interests of working people.

Now we have unheard of restrictions on activities that are designed to balance off the interests of the business class. Right wing, extreme business folks are demanding that you go through with this attack, you continue this attack, and we have a series of bills that now are clearly out to destroy the rights that everybody enjoys in the name of trying to protect us from unions that are extreme and subversive. Why should organizing a union be subversive? Why should a person who goes to work for a business be automatically suspect because they are a worker? Why should the NLRB now be reformed when it existed under the Bush and Reagan administration for many years and it took them forever to come out with decisions. The NLRB,

OSHA, anything that relates to working people is under attack. This is the first salvo. I think we should understand it and get ready for it.

Davis-Bacon, all of the kinds of things that have been set up over the years, sometimes by Republicans. Davis and Bacon were Republicans. But Davis-Bacon is under attack, too, the prevailing wage law. There is nothing that benefits working families in America that will not be attacked in the next few months as the new Battle of the Bulge is launched to try to get even with the unions for defending their own interests.

You had Pearl Harbor. We suffered a terrible attack at Pearl Harbor. But remember who won the war. The unions in fighting back have only done what they are supposed to do in terms of representing the interests of workers. For representing the interests of workers now, they are told you are going to have to give reports; you are going to have to let every member vote and decide on any position you take. Corporations spend billions of dollars of shareholders money, but they never have to make reports. Corporations spend large amounts of political money, millions in soft money; they outspent the unions by more than 20 to 1 in soft money in the last election, but corporations will not have to make the same kinds of reports to their members. They will not have to have their members vote on every decision they make. This is clearly an attempt to create two societies in America, one for working families and one for everybody else. I think that we should understand this assault and stop it right now.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my friend and fellow Californian, the gentleman from Del Mar (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, this is laughable. Now the unions have won World War II. This is the same group that said that sharks still follow the ships because of the number of slaves that fell over. The gentleman is factually challenged. He talks about American families, American working families. Over 90 percent of the jobs in this country are small business and business, nonunion. Over 90 percent are nonunion. But yet the people that support this do everything they can to kill small business.

The issue, salting, you go into a small business and you try and destroy it. How many of them have ever been organized? Zero. Yet you go in and tie them up before the board and actually force them out of business. When you talk about the working family, talk about the 90 percent that are nonunion. You talk about Davis-Bacon, you say, "Well, I'm for the children." In Washington, D.C., schools, the buildings are over 60 years old. We could have gone in and waived Davis-Bacon to build schools and saved 35 percent. But are you for children or union bosses? No, the union bosses. Why? Look at the

paper. The AFL-CIO, the Teamsters, hundreds of millions of dollars that go to the DNC tied to organized crime, but yet they support their campaigns. Less than 10 percent. They know that small business cannot organize. Then 30 percent of those less than 10 percent are Republicans, 10 percent are third party, and they charge that 40 percent union dues to be used against candidates that they do not support.

The gentleman talks about working families. Why does the gentleman not support the 90 percent of working families that are out there that the unions try and persecute? No, because they fund the gentleman's campaigns.

□ 1745

Mr. DREIER. Mr. Speaker, to close debate, I yield such time as he may consume to the gentleman from Jacobus, Pennsylvania (Mr. GOODLING) the chairman of the Committee on Education and the Workforce.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I have often heard it said that if one really wants to be passionate, they should not read what it is that is going to be discussed and debated, and then they can get up and wax eloquently. And I think I may have heard some of that this afternoon. I cannot believe that some of the people who were waxing eloquently have read anything about what it is that is in the legislation. It was amazing, all the things that I heard.

One of them that really concerned me is someone was talking about sweatshops, and then somebody else was talking about the workingmen and women, and I visited an area that somebody in this House represents, and I could not believe that it could happen in the United States. And guess what? Most of them were represented by organized labor. We will hear a lot more about that when we get to that point next week.

Well, let us make it very clear that all we try to do is bring labor and management into the 21st century. If we cannot bring labor and management into the 21st century, I will guarantee there will be no jobs out there for anybody. We will not be able to compete.

Keep in mind that all or most all the labor laws were written in the 1930s when it was men only in the work force, and when it was manufacturing predominantly. That is not the 21st century, my colleagues, and we have a worldwide competitive effort if we are going to succeed and provide jobs.

Well, someone said, "How are you going to determine whether somebody is a bona fide employee or not?" All we say is that one's motivation when they seek a job is 50 percent. The motivation is that, as a matter of fact, they want to help the company succeed so that they have a job, so that they can get better wages, so that they can get better fringe benefits. The motivation has to be 50 percent.

And, of course, the gentleman from Illinois said, "Who makes that determination?" The council at the NLRB, the council at the NLRB. Can we get any more protection than that in this day and age?

Well, let me refer to two editorials. I think they are kind of interesting. I think they also point out what it is we are trying to do. One of them is entitled "When You Can't Afford To Win." "When You Can't Afford To Win." It happened to be a contractor in Little Rock, Arkansas. Two men appeared there, wanted a job.

He said, "I'm sorry, we don't have any openings. We don't need any employees."

Well, he thought, that was the end of it. A couple months later he is notified by the National Labor Relations Board that charges have been filed against him.

So he gets a good labor lawyer, and the labor lawyer said, "Well, there's no doubt about it, you win, but it will cost you."

Now how did the labor lawyer know that? Because most of those suits are thrown out. Most of the time they are strictly frivolous.

And so he started doing a little arithmetic, and he found out that it will cost him \$23,000 to win.

Now it is a small business, he does not have \$23,000. So he says, "What does it cost me to lose?"

And the lawyer said, "Well, that will only cost you 6,000. It will be 3,000 for each of the two that came looking for a job that you didn't have."

Well, he looked at his arithmetic and he said, "23,000 to win, 6,000 to lose; I'll take the \$6,000." Obviously most small businesses are going to take the \$6,000.

And so all we are trying to say is, well, it seems to me that one's motivation should be at least 50 percent that actually go there and work, actually try to make the business improved so they can get more money and so that they go get better benefits. It does not sound like that is some mean-spirited kind of nasty people over here on this side of the aisle that want to take advantage of the working Americans.

Well, we had one person testify who said that he was an organizer. That was his job. And he said to some of those who were involved, "Well, why don't we try to do a little more actually organizing and working to see whether we can bring about an organization of this company, because I know a couple members who are willing, who are employees who are willing to move ahead and help us."

And he was told by the higher-ups, "That isn't what we're in the business of doing. We're in the business of saying we're going to squeeze you and squeeze you and squeeze you. We want your money, we want to put you out of business. We're not necessarily interested in organizing a lot of these little businesses."

I think the closing paragraph of another editorial I saw is exactly what

this is all about, exactly what we are trying to do. And the closing paragraph says, it is reassuring to know that some relief is being considered for the real victims of the status quo, workers, I repeat workers, small businesses and small unions. I repeat that also, and small unions.

That is what the legislation is all about. The legislation is to try to make things better for workers, small businesses, and small unions.

So I hope all will read the legislation and then be a little more passionate about the facts rather than fiction.

Mr. DREIER. Mr. Speaker, I urge support of this very fair and balanced rule, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

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

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 220, nays 185, not voting 25, as follows:

[Roll No. 76]

YEAS—220

Aderholt	English	Kolbe
Archer	Ensign	LaHood
Armey	Everett	Largent
Bachus	Ewing	Latham
Baker	Fawell	LaTourette
Ballenger	Foley	Lazio
Barr	Fossella	Leach
Barrett (NE)	Fowler	Lewis (CA)
Bartlett	Fox	Lewis (KY)
Bartton	Franks (NJ)	Linder
Bass	Frelinghuysen	Livingston
Bateman	Galleghy	LoBiondo
Bereuter	Ganske	Lucas
Bilbray	Gekas	Manzullo
Bilirakis	Gibbons	McCollum
Bliley	Gilchrest	McCrery
Blunt	Gilman	McDade
Boehkert	Goode	McHugh
Boehner	Goodlatte	McInnis
Brady	Goodling	McIntosh
Bryant	Goss	McKeon
Bunning	Graham	Metcalf
Burr	Granger	Mica
Burton	Greenwood	Miller (FL)
Buyer	Gutknecht	Moran (KS)
Callahan	Hall (TX)	Morella
Calvert	Hansen	Myrick
Camp	Hastert	Nethercutt
Campbell	Hastings (WA)	Neumann
Canady	Hayworth	Ney
Castle	Hefley	Northup
Chabot	Herger	Norwood
Chambliss	Hill	Nussle
Chenoweth	Hilleary	Oxley
Christensen	Hobson	Packard
Coble	Hoekstra	Pappas
Coburn	Horn	Parker
Collins	Hostettler	Paul
Combest	Hulshof	Paxon
Cook	Hunter	Pease
Cox	Hutchinson	Peterson (PA)
Crane	Hyde	Petri
Cubin	Inglis	Pickering
Cunningham	Istook	Pitts
Davis (VA)	Jenkins	Pombo
Deal	Johnson (CT)	Porter
DeLay	Johnson, Sam	Portman
Dickey	Jones	Pryce (OH)
Doolittle	Kasich	Quinn
Dreier	Kelly	Radanovich
Duncan	Kim	Ramstad
Dunn	King (NY)	Redmond
Ehlers	Kingston	Regula
Ehrlich	Klug	Riggs
Emerson	Knollenberg	Riley

Rogan	Skeen	Thune
Rogers	Smith (MI)	Tiahrt
Rohrabacher	Smith (NJ)	Traficant
Ros-Lehtinen	Smith (OR)	Upton
Roukema	Smith (TX)	Walsh
Ryun	Smith, Linda	Wamp
Salmon	Snowbarger	Watkins
Sanford	Solomon	Watts (OK)
Saxton	Souder	Weldon (FL)
Scarborough	Spence	Weldon (PA)
Schaefer, Dan	Stearns	Weller
Schaffer, Bob	Stenholm	White
Sensenbrenner	Stump	Whitfield
Sessions	Sununu	Wicker
Shadegg	Talent	Wolf
Shaw	Tauzin	Young (AK)
Shays	Taylor (NC)	Young (FL)
Shimkus	Thomas	
Shuster	Thornberry	

NAYS—185

Abercrombie	Green	Obey
Ackerman	Gutierrez	Olver
Allen	Hall (OH)	Ortiz
Andrews	Hamilton	Owens
Baesler	Hastings (FL)	Pallone
Baldacci	Hefner	Pascrell
Barcia	Hilliard	Pastor
Barrett (WI)	Hinchey	Pelosi
Becerra	Hinojosa	Peterson (MN)
Bentsen	Holden	Pickett
Berman	Hooley	Pomeroy
Berry	Hoyer	Poshard
Bishop	Jackson (IL)	Price (NC)
Blagojevich	John	Rahall
Blumenauer	Johnson (WI)	Reyes
Bonior	Kanjorski	Rivers
Borski	Kaptur	Rodriguez
Boswell	Kennedy (MA)	Roemer
Boucher	Kennedy (RI)	Rothman
Boyd	Kennelly	Roybal-Allard
Brown (CA)	Kildee	Rush
Brown (OH)	Kilpatrick	Sabo
Capps	Kind (WI)	Sanchez
Carson	Kleczka	Sanders
Clay	Klink	Sandlin
Clayton	Kucinich	Sawyer
Clement	LaFalce	Schumer
Clyburn	Lampson	Scott
Condit	Lantos	Serrano
Costello	Levin	Sherman
Coyne	Lewis (GA)	Sisisky
Cramer	Lipinski	Skaggs
Cummings	Lofgren	Skelton
Danner	Lowey	Slaughter
Davis (FL)	Luther	Smith, Adam
Davis (IL)	Maloney (CT)	Snyder
DeFazio	Maloney (NY)	Spratt
DeGette	Manton	Stabenow
Delahunt	Markey	Stark
DeLauro	Martinez	Stokes
Deutsch	Mascara	Strickland
Dicks	Matsui	Stupak
Dingell	McCarthy (MO)	Tanner
Dixon	McCarthy (NY)	Tauscher
Doggett	McGovern	Taylor (MS)
Dooley	McHale	Thompson
Doyle	McIntyre	Thurman
Edwards	McKinney	Tierney
Eshoo	Meehan	Torres
Etheridge	Meek (FL)	Towns
Evans	Meeks (NY)	Turner
Farr	Menendez	Velazquez
Fattah	Miller (CA)	Vento
Fazio	Minge	Visclosky
Filner	Mink	Watt (NC)
Forbes	Moakley	Waxman
Frank (MA)	Mollohan	Wexler
Frost	Moran (VA)	Weygand
Furse	Murtha	Wise
Gejdenson	Nadler	Woolsey
Gephardt	Neal	Wynn
Gordon	Oberstar	

NOT VOTING—25

Bonilla	Ford	McDermott
Brown (FL)	Gillmor	McNulty
Cannon	Gonzalez	Millender-
Cardin	Harman	McDonald
Coyers	Houghton	Payne
Cooksey	Jackson-Lee	Rangel
Crapo	Pryce (TX)	Royce
Diaz-Balart	Jefferson	Waters
Engel	Johnson, E. B.	Yates

□ 1812

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT, FRIDAY, MARCH 27, 1998, TO FILE 2 PRIVILEGED REPORTS ON BILLS MAKING SUPPLEMENTAL APPROPRIATIONS AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1998

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight, Friday, March 27, 1998 to file two privileged reports on bills, one making emergency supplemental appropriations for fiscal year 1998 and the other making supplemental appropriations for fiscal year 1998.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XXI, all points of order are reserved on the bills.

FAIRNESS FOR SMALL BUSINESS AND EMPLOYEES ACT OF 1998

The SPEAKER pro tempore (Mr. KINGSTON). Pursuant to House Resolution 393 and rule XXIII, 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. 3246.

□ 1817

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. 3246) to assist small businesses and labor organizations in defending themselves against government bureaucracy; to ensure that employees entitled to reinstatement get their jobs back quickly; to protect the right of employers to have a hearing to present their case in certain representation cases; and to prevent the use of the National Labor Relations Act for the purpose of disrupting or inflicting economic harm on employers, with Mr. MCCOLLUM in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. CLAY) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. FAWELL), the subcommittee chairman who studies carefully and knows what it is he says.

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

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, H.R. 3246, the Fairness for Small Business and Employees Act is a pro-employee, pro-employer, pro-labor organization bill that is also good for the economy and good for the American taxpayers.

Having introduced last session three of the four bills which comprise the four titles of this legislation, I would like to focus my time on two titles. Title I is a targeted provision intended to help employers who are being damaged and even run out of business due to abusive union "salting" tactics. Title IV is a provision allowing small employers and small labor organizations who prevail against the NLRB unfair labor practice complaint to recover their attorney fees and costs.

Title I says simply that someone must be a "bona fide" employee applicant before the employer has an obligation to hire them under the National Labor Relations Act. Mr. Chairman, a "bona fide" applicant is defined as someone who is not primarily motivated to seek employment to further other employment or other agency status. What this means in layman's terms is that someone who is at least half-motivated to work for the employer is not impacted by this legislation at all.

Now, significantly, and I want to make this clear, the test of whether a job applicant is a "bona fide applicant" under Title I is a decision that will, in the first instance, be made by the general counsel of the NLRB. This legislation seeks only to prevent the clear-cut abusive situations in which union agents or employees openly seek a job as a "salter" with nonunion businesses.

Mr. Chairman, if people will listen to this one point: A "salter" is described in the Organizing Manual of the International Brotherhood of Electrical Workers as an employee who is expected, now get this, and I quote,

To threaten or actually apply economic pressure necessary to cause the employer to raise his prices to recoup additional costs, scale back his business activities, leave the union's jurisdiction, go out of business.

Now, that is an exact quote in the manual of the International Brotherhood of Electrical Worker's definition of what a salter can be. How is that for a bona fide applicant?

A final point on Title I. This legislation does not overturn, does not overturn the Supreme Court's decision in 1995 in *Town & Country*. That decision held very narrowly that the definition of an employee under the NLRA can include paid union agents. Title I does not change this, nor the definition of an employee, nor the definition of an employee applicant under the NLRA. They obviously can still be involved in customary efforts to organize a non-union shop. It simply would make clear

that someone must be at least 50 percent motivated to work for the employer to be taken seriously as a job applicant.

Title IV of the Fairness for Small Business and Employees Act is what we call a "loser pays" concept, applied against the NLRB when it loses complaints it brings against the very small companies or small labor organizations, those who have no more than 100 employees and a net worth of no more than \$1.4 million.

Title IV is a reasonable provision which ensures that taxpayer dollars are spent wisely and effectively. It tells the Board that after it reviews the facts of a case, that before it issues a complaint and starts the serious machinery against the "little guy," whether union or business, that it should be very careful to make sure it has a reasonable case. If the NLRB does move forward against these small entities of modest means and loses the case, then it simply must reimburse the small business or labor organization, the winner's legal expenses.

Title IV is a winner for the small company and the small union who do not have the resources to mount an adequate defense against a well-funded, well-armed National Labor Relations Board who pays, by the way, from the taxes all of the expenses of the complainant, whether it is the union or an employer.

This bill ensures that the little guy has some sort of an incentive to fight a case and ensures that they will not be forced into bankruptcy to defend themselves, as countless employers have been. H.R. 3246 is a narrowly crafted, targeted bill attempting to correct four specific problems at the NLRB. It is benign, and it is fair, and I urge my colleagues to be serious and look at the real facts of this issue.

Mr. CLAY. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. SAWYER).

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

Mr. SAWYER. Mr. Chairman, I rise in opposition to the bill.

This country was founded on democratic principles; on majority rule that protects the rights of the minority. Yet for 150 years, we failed to have democracy in the workplace.

In 1935, the passage of the National Labor Relations Act for the first time ensured that workers, unions, and employers were given a forum for resolving labor practice disputes.

Not every worker will join a union, or even has the desire to do so, but democracy in the workplace means that workers can make that choice. The bill before us today would take away that basic worker right to choose whether to join a union.

This legislation is being portrayed as necessary to modernize this law. I agree that given the fundamental changes in the labor market since the 1930's this law may be ripe for reform. But we must not undermine the principles of democracy that it took so long for workers to get.

In its 1994 report, the Dunlop Commission recommended a number of changes that