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2 HEARING TO CONSIDER: A RESOLUTION
3 ESTABLISHING A TASK FORCE TO CONDUCT AN
4 INQUIRY INTO WHETHER U.S. DISTRICT COURT
5 JUDGE G. THOMAS PORTEOUS SHOULD BE IMPEACHED;
6 MARKUP OF H.R. 6020, TO AMEND THE
7 IMMIGRATION AND NATIONALITY ACT TO PROTECT
8 THE WELL-BEING OF SOLDIERS AND THEIR
9 FAMILIES, AND FOR OTHER PURPOSES;
10 AND H.R. 6598, THE "PREVENTION OF EQUINE
11 CRUELTY ACT OF 2008"
12 Wednesday, September 17, 2008
13 House of Representatives,
14 Committee on the Judiciary,
15 Washington, D.C.

16 The committee met, pursuant to call, at 11:20 a.m., in Room
17 2141, Rayburn House Office Building, Hon. John Conyers
18 [chairman of the committee] presiding.

19 Present: Representatives Conyers, Berman, Nadler,
20 Scott, Watt, Lofgren, Jackson Lee, Waters, Delahunt, Wexler,
21 Sanchez, Cohen, Johnson, Sutton, Gutierrez, Sherman, Baldwin,
22 Weiner, Schiff, Davis, Wasserman Schultz, Ellison, Smith,
23 Sensenbrenner, Coble, Gallegly, Goodlatte, Chabot, Lungren,
24 Cannon, Keller, Issa, Pence, Forbes, King, Feeney, Franks,
25 Gohmert, and Jordan.

26 Staff present: Perry Apelbaum, Staff Director/Chief
27 Counsel; Ted Kalo, General Counsel/Deputy Staff Director;
28 George Slover, Legislative Counsel/Parliamentarian; Sean
29 McLaughlin, Minority Chief of Staff/General Counsel; Allison
30 Halataei, Minority Deputy Chief of Staff/Parliamentarian; and
31 Anita L. Johnson, Clerk.

32 Chairman Conyers. [Presiding.] Good morning.

33 Pursuant to notice, I call up the resolution to
34 establish a task force to conduct an inquiry into whether
35 U.S. District Judge Thomas Porteous should be impeached.

36 You all have a copy of the resolution. Without
37 objection, the resolution will be considered as read, and
38 open for amendment at any point.

39 [The resolution follows:]

40 ***** INSERT *****

41 Chairman Conyers. This resolution creates a task force
42 to inquire into the impeachment consideration of Judge Thomas
43 Porteous.

44 Earlier this summer, the Judicial Conference certified
45 to the speaker its determination that consideration of his
46 impeachment may be warranted, stating it had found
47 substantial evidence that he had engaged in conduct bringing
48 disrepute to the federal judiciary. Along with the
49 certification, the Judicial Conference provided us records of
50 its proceedings in which that evidence was set forth in more
51 detail.

52 Last week, the Fifth Circuit Court removed all cases
53 from his docket and removed his staff, and issued a public
54 reprimand.

55 We are taking this referral seriously, and adopting this
56 resolution would enable us to fully and expeditiously
57 investigate it. This resolution would authorize the task
58 force to begin the inquiry and continue pursuing it, even
59 after Congress adjourns, until the task force expires at the
60 end of the 110th Congress in January.

61 In the next Congress, the committee could resume the
62 inquiry and take further appropriate action. The resolution
63 also contemplates that we will be given authority to conduct
64 depositions, including by staff or consultants hired by the
65 committee.

66 While we are awaiting a directive from the House, we are
67 taking the opportunity now at what might well be our last
68 markup in this Congress to set up the committee mechanism in
69 anticipation of getting that direction.

70 The resolution before us sets forth the procedures under
71 which such depositions would be conducted, worked out in
72 consultation between myself and the distinguished gentleman
73 from Texas, Lamar Smith.

74 And so, I would now at this point recognize the ranking
75 member of the Judiciary Committee.

76 Mr. Smith. Thank you, Mr. Chairman.

77 The resolution before us today establishes a task force
78 to conduct an inquiry into whether U.S. District Judge G.
79 Thomas Porteous should be impeached. I cannot say that I am
80 pleased to consider this resolution, as there is nothing
81 pleasant about having to investigate a public official who
82 may have abused their office. However, I strongly believe
83 that the committee is doing the right thing.

84 In June, the Judicial Conference letter to Speaker
85 Pelosi and the committee, recommending that we consider
86 impeachment proceedings for U.S. District Judge G. Thomas
87 Porteous, Jr., citing unethical and possibly fraudulent
88 behavior.

89 It is not a common occurrence for the Judicial
90 Conference to recommend something as severe as impeachment

91 proceedings against a federal judge. In fact, in the past
92 219 years, only 13 federal judges have been impeached. The
93 House has exercised its prerogative sparingly in deference to
94 judicial independence, one of the cornerstones of our
95 republic.

96 But public corruption at any level cannot be tolerated,
97 and the alleged corruption of a federal judge, who is
98 appointed for life, is especially egregious. Unfortunately,
99 that is the case here today.

100 Chairman Conyers and I both believe that there is
101 sufficient reason to initiate an impeachment inquiry for
102 Judge Porteous, because of the severity of the allegations
103 and the subsequent recommendation by the Judicial Conference.

104 According to the Judicial Conference, substantial
105 evidence exists that Judge Porteous committed the following
106 acts.

107 He repeatedly committed perjury by signing false
108 financial disclosure forms under oath. This perjury
109 concealed cash and things of value that he solicited and
110 received from lawyers appearing in litigation before him.

111 He repeatedly committed perjury by signing false
112 statements under oath in a personal bankruptcy proceeding.
113 This perjury allowed him to obtain a discharge of his debts
114 while continuing his life style at the expense of creditors.

115 He willfully and systematically concealed from litigants

116 and the public his financial transactions involving the
117 required disclosure of income, debts, loans and liabilities.
118 This conduct made it impossible for litigants to seek recusal
119 or to challenge his failure in cases in which lawyers who
120 appeared before him had given cash and other things of value.

121 He violated several criminal statutes and ethical canons
122 by presiding over a 2002 case in which he denied a motion to
123 recuse, based on his relationship with lawyers in the case.
124 Thereafter, while a bench verdict was pending, he solicited
125 and received from the lawyers appearing before him illegal
126 gratuities in the form of cash and other things of value.

127 Finally, he made false representations to gain the
128 extension of a bank loan with the intent of defrauding the
129 bank and causing the bank to incur losses.

130 In addition to the Judicial Conference's recommendation,
131 the Judicial Counsel of the Fifth Circuit has publicly
132 sanctioned Judge Porteous by refusing to assign him new cases
133 for 2 years, or until Congress takes final action on
134 impeachment proceedings.

135 The materials submitted to the Judiciary Committee by
136 the Judicial Conference are expansive and thorough. These
137 documents leave no doubt that we must undertake an
138 impeachment inquiry based on the terms of the resolution
139 before us.

140 Today's resolution creates a task force that will

141 conduct an impeachment inquiry. The task force will be
142 authorized to hold hearings and investigate the facts
143 surrounding Judge Porteous' conduct. The resolution also
144 gives the committee authority to take depositions for
145 purposes of this inquiry.

146 I thank the chairman for his attention to this matter,
147 as we undertake our constitutional duties. And Mr. Chairman,
148 I will yield back.

149 Chairman Conyers. Thank you, Lamar.

150 Without objection, other members' statements will be
151 included in the record.

152 Are there any amendments? If not, the question is on
153 adoption of the resolution.

154 All those in favor will signify by saying "aye."

155 [A chorus of ayes.]

156 Chairman Conyers. All those opposed say "no."

157 [No response.]

158 The "ayes" have it. The resolution is adopted. I thank
159 the membership.

160 In a day or two, this will come to the floor, and we
161 will be—

162 Pursuant to notice, we resume our consideration of the
163 bill 6020, the Lance Corporal Gutierrez Act.

164 When we recessed last week, the bill was reported by the
165 subcommittee, was original text for the purposes of

166 amendment, and we were considering that amendment by the
167 gentleman from Iowa, Steve King. There were discussions
168 about trying to adjust some of the concerns in a bipartisan
169 fashion, and I understand that the chair of Immigration
170 Subcommittee has prepared an amendment to do that.

171 In light of that, I wonder if the distinguished
172 gentleman from Iowa plans to withdraw his amendment. And I
173 would yield to him.

174 Mr. King. Mr. Chairman, I think you are back there. I
175 can see you at least.

176 Mr. Chairman, I have got some sense of understanding of
177 what might be in a manager's amendment. And with that in
178 mind and not foreclosing any of my options, I would offer to
179 withdraw the amendment that I offered on this bill at the
180 previous meeting.

181 Chairman Conyers. I thank the gentleman very much, and
182 so ordered.

183 And I now recognize the chairwoman of the Immigration
184 Subcommittee, Ms. Lofgren.

185 Ms. Lofgren. Thank you, Mr. Chairman.

186 As you mentioned, when we recessed last week, we had a
187 discussion about whether we could reach consensus on an
188 amendment. And since that time, we have at a staff level
189 worked extensively with members of the minority to sort
190 through this.

191 I think it is worth pointing out what the overall
192 structure of the bill is and why it makes sense, but also why
193 we can in good faith come up with an amendment.

194 The bill permits an immigration judge to make
195 individualized, case-by-case findings relative to existing
196 law that makes individuals ineligible for various benefits
197 under the INA.

198 At some point last week, someone mentioned the liberal
199 immigration judges. And I was mindful that the inspector
200 general's report of the Justice Department indicated that,
201 contrary to law, immigration judges were appointed based on
202 their willingness to vote for George Bush.

203 Monica Goodling did indicate that we had crossed the
204 line in the Justice Department, and it was partisan
205 Republican hiring in contradiction to the civil service laws.
206 So, I think, you know, the concern about liberal immigration
207 judges is a bit misplaced.

208 But because no judge would waive a serious offense, such
209 as murder or rape, there is really no reason not to eliminate
210 the discretion relative to serious offenses. And so, that is
211 what we have done in this manager's amendment. We have
212 simply taken out all of the serious offenses in 237A—drug
213 trafficking, murder, rape, the list goes on and on.

214 Now, there are some offenses that we were not able to
215 remove. And that is because the court encompass a very broad

216 variety of misbehavior, and I will give you an example: a
217 crime involving moral turpitude. That could include a petty
218 theft that an individual engaged in 30 years ago, or it could
219 include a very serious offense that happened yesterday.

220 And so, it really is necessary for a judge to make a
221 determination on a case-by-case basis, what actually
222 happened, so that an American soldier can be given a break,
223 if he or she had a family member that committed a minor
224 offense a long time ago.

225 And I think that is really what we are trying to do, to
226 make sure that the families of our American soldiers can be
227 with them and not be penalized.

228 We also did not remove—and this was at the request—
229 really, in consultation would be better to say—with the
230 National Rifle Association—the firearm possession issues.
231 And I will quote the NRA in their communication to us. They
232 say, "We agree that unlawful firearm possession should not
233 automatically block the person from favorable immigration
234 treatment."

235 For one thing, many people benefiting from this bill
236 might have possessed firearms while they were unlawfully in
237 the United States. This is already the subject of very
238 tangled case law at the appellate level.

239 It makes sense to limit the toughest treatment to people
240 who have misused firearms in a serious crime. And

241 immigration judges should have the discretion to look at all
242 factors in such a case.

243 Now, as many know, the NRA and I are not always on the
244 same side of an issue. But certainly, I think their approach
245 in this bill and their support of this portion of the
246 amendment speaks well for our efforts to reach a bipartisan
247 consensus on this measure.

248 Now, I believe that really we have solved every
249 potential issue on this bill.

250 I will note that we received a letter from the
251 Department of Homeland Security at 11:23 p.m. last night.
252 And they raise various issues, some of which are just
253 factually incorrect. But I would note that we had a hearing
254 on this bill on May 8th, and I was just astonished that at
255 11:23 last night they would weigh in on various issues, and
256 also, in some cases, just wrong. They do not understand the
257 bill.

258 But certainly, if we are able to report this bill, I
259 would be happy, now that the DHS has finally woken up, to
260 consider whatever point of view they may have, and also
261 explain to them their misunderstanding in some cases the
262 immigration law.

263 With that—

264 Mr. King. Would the gentlelady yield?

265 Chairman Conyers. Before she does, could we ask the

266 clerk to call up the amendment?

267 Ms. Lofgren. Thank you, Mr. Chairman.

268 The Clerk. Amendment to the amendment on the nature of
269 a substitute to H.R. 6020, offered by Ms. Lofgren of
270 California.

271 [The amendment by Ms. Lofgren follows:]

272 ***** INSERT *****

273 Ms. Lofgren. I would ask that the amendment be
274 considered as read, Mr. Chairman.

275 Chairman Conyers. Without objection, so ordered.

276 Ms. Lofgren. And I would be happy to yield to Mr. King.

277 Mr. King. I thank the gentlelady from California.

278 And I just—I believe it was my reference to liberal
279 judges that you referenced in your statement on your
280 manager's amendment. And I wanted to point out that we have
281 had Republicans that have appointed a significant number of
282 liberal judges, and I would start out with John Paul Stevens
283 being a Reagan appointee. And we all recognize that the
284 decisions made, the latitude of the judges is why we brought
285 this legislation in the first place.

286 And then, the statement made by Monica Goodling, here in
287 this committee—and I am going off of my recollection, not
288 having the benefit of going back to review her testimony—but
289 I believe, I think she said that she believed that in
290 circumstances they may have crossed the line.

291 But I do not think that it is appropriate to
292 characterize the process of judicial appointments in that
293 light exclusively. And I appreciate that—

294 Ms. Lofgren. Reclaiming my time, I would just note that
295 the inspector general, who looked at it, indicated that the
296 behavior at the Justice Department, specifically in the
297 appointment of immigration judges, violated the civil service

298 statutes. And I think that speaks for itself. I would be
299 happy to make a copy of the inspector general's report
300 available.

301 Mr. King. If the gentlelady would yield.

302 Ms. Lofgren. Yes, I would further yield.

303 Mr. King. I just would like to thank you. And I would
304 just like to restate my point that I do not think it is
305 appropriate to characterize the appointment process reflected
306 in that light. I think it is more appropriate to say that
307 that has been identified as something that has happened.

308 Thank you, and I yield back.

309 Ms. Lofgren. I think the gentleman's statement is—I
310 cannot even understand the point you are making. But I will
311 be happy to make the inspector general's report available to
312 you, if you do not have a copy.

313 But the real point is, as the NRA has pointed out, there
314 is a need to take a look on a case-by-case basis at the
315 various factors that relates to our soldiers and their
316 families. And this amendment removes all of the serious
317 offenses that were going to be the subject of repeated
318 amendments, because no judge would waive those in any case.

319 So, that is why I think this amendment really solves any
320 issue that people had last week. It does not really change
321 the outcome of any case, because no judge would have waived
322 these serious offenses in any case.

323 And unless there are further questions, Mr. Chairman, I
324 would yield back and recommend approval of this amendment.

325 Chairman Conyers. Lamar Smith?

326 Mr. Smith. Thank you, Mr. Chairman.

327 I support this amendment. But on the way to making my
328 statement about the amendment, I do want to make two points.

329 I thought the gentlewoman, the chairman of the
330 Immigration Subcommittee was actually talking about me in the
331 reference to liberal immigration judges, so a lot of us
332 apparently have used that phrase.

333 But I did want to point out—and I agree with the
334 gentleman's point—clearly, there is no justification for
335 appointing immigration judges and taking into consideration
336 political backgrounds or political voting, or anything like
337 that. And the inspector general's report, I suspect, will
338 result in a change of policy, if it has not already.

339 But I do not think the gentlewoman intended to leave the
340 impression that all immigration judges were in that category.
341 As I understand it, those who were appointed with political
342 considerations are actually a very small fraction of the
343 overall number.

344 And I still think it is a legitimate concern on the part
345 of many of us that some immigration judges are going to be
346 very showy—if we do not want to use the word "liberal," then
347 maybe "expansive" in their view of the actions that they

348 could take and the waivers that they could grant.

349 The second point I want to make is that I share the
350 gentlewoman's frustration with getting the administration
351 position at I think she said 11:43 last night. I do want to
352 assure her that we did not get it any sooner than she did.

353 Ms. Lofgren. I certainly did not suspect otherwise, Mr.
354 Chairman.

355 Mr. Smith. And that is regrettable, and I wish this
356 administration—and, I hope, all future administrations—will
357 act in a little bit more timely manner.

358 I do want to read a very brief excerpt from the
359 administration's letter on this bill, and then ask that the
360 entire letter be made a part of the record.

361 But the phrase I wanted to read very briefly into the
362 record is that the administration—"We have numerous serious
363 concerns about H.R. 6020, and we cannot support its
364 enactment."

365 Mr. Chairman, back to my statement on the gentlewoman's
366 amendment. The amendment does improve the bill. It
367 eliminates the ability of immigration judges to waive grounds
368 of removability, based upon the commission of certain crimes
369 such as murder, rape, treason and espionage.

370 However, even with this amendment, the bill gives
371 immigration judges the power to waive the immigration
372 consequences of many serious crimes.

373 I did not say liberal immigration judges, I just said
374 immigration judges.

375 Let me mention some of the crimes and other abuses that
376 the bill still provides waivers for: crimes of moral
377 turpitude; crimes of domestic violence, stalking and child
378 abuse; crimes of violence for which term of imprisonment was
379 at least 1 year; crime of theft for which term of
380 imprisonment was at least 1 year; fraud offenses in which the
381 loss to the victim was over \$10,000; controlled substance
382 crimes; returning to the U.S. after having previously
383 departed the U.S. under immunity for having committed a
384 serious criminal offense; severe violations of religious
385 freedom; gambling offenses and investing racketeering profits
386 in businesses which are engaged in interstate commerce;
387 passport and visa counterfeiting, for which the term of
388 imprisonment was at least 1 year; failure to appear for
389 service of a criminal sentence; failure to appear before a
390 court to answer for a felony; and failing to register as a
391 sex offender.

392 This bill still allows immigration judges broad
393 discretion to waive the immigration penalties for these
394 serious crimes.

395 In addition, the bill still grants amnesty to almost
396 anyone who has ever served in the United States military, no
397 matter how briefly or how long ago they served. Amnesty also

398 still goes to illegal immigrant family members of persons in
399 the military and family members of veterans.

400 This amnesty is the key reason why the American Legion
401 staunchly opposes the bill. And let me quote again from the
402 letter of the Legion national commander.

403 "The American Legion opposes the bill, because of the
404 organization's unequivocal opposition to granting amnesty to
405 those residing illegally in the United States. Fundamental
406 to our position is the distinction that must be made between
407 legal and illegal immigrants. Non-citizen service members'
408 relatives who have entered the U.S. illegally or overstayed a
409 visa, or who may be fugitives from justice, deserve no
410 special adjustment."

411 I urge my colleagues to support this amendment, but vote
412 against the bill on final passage. And I will yield back.

413 Ms. Lofgren. Would the gentleman yield?

414 Mr. Smith. And I will be happy to yield to the
415 gentlewoman.

416 Ms. Lofgren. I don't know if we will have further
417 discussion. I just wanted—and I thank the gentleman for
418 yielding—to understand the need for a case-by-case analysis
419 on some of these things.

420 Take, for example, passport fraud. It is not just
421 American passports. It is a common thing that individuals
422 seeking political asylum in the United States sometimes come

423 with a false passport.

424 In fact, Mr. Gohmert has a bill for the release of some
425 Albanians who had to flee Albania because they were going to
426 be murdered. And they came to the U.S. with false French
427 passports.

428 So, I just think it is important that a judicial officer
429 have an opportunity to make a judgment based on the facts.
430 And I wanted to clarify and make sure everyone understood
431 that this is not U.S. passport fraud that is—here it could be
432 many asylum seekers.

433 And in fact, in the judicial district in Miami, there
434 was—although I think it has stopped now—prosecution of
435 Haitians who came seeking political asylum with false
436 passports, that really undercut the whole asylum law scheme
437 that has been part of our immigration law for many, many
438 decades.

439 So, that is the background on that provision, and I
440 wanted to be—you may still disagree, but I wanted to at least
441 clarify that. And I appreciate the gentleman for yielding.

442 Mr. Smith. I will reclaim my time. And I do appreciate
443 the gentlewoman's comments.

444 In the case of this particular crime, it is passport and
445 visa counterfeiting, for which the term of imprisonment was
446 at least 1 year. I think it is highly unlikely that an
447 individual who, on an individual basis, who might have had a

448 passport that was inaccurate, is a crime that would warrant
449 an imprisonment of at least a year.

450 And so, I do not think that particular individual would
451 be caught up in the kind of crime that I am hoping to make
452 sure that the immigration judges do not have discretion
453 whether or not to grant a waiver about.

454 Ms. Lofgren. If the gentleman would first--

455 Mr. Smith. And I will yield again.

456 Ms. Lofgren. I would ask unanimous consent to put in
457 the record the news articles covering the prosecution of the
458 Haitian asylum seekers. I think it was a poor judgment in
459 terms of prosecution priorities, but it did happen.

460 And I thank the gentleman for yielding on that point.

461 [The information follows:]

462 ***** COMMITTEE INSERT *****

463 Mr. Smith. I thank the gentlewoman.

464 I will yield back, Mr. Chairman.

465 Mr. Nadler. Mr. Chairman?

466 Chairman Conyers. Thank you.

467 The chair recognizes the chairman of the committee on
468 the Constitution, Jerry Nadler.

469 Mr. Nadler. Thank you.

470 I simply want to agree with and go a bit further than
471 what the gentlelady from California said. It has always
472 struck me as a little strange that we prosecute cases, and
473 we, in fact, arrange for expedited removal of cases, where
474 there are false documents or bad documents from people
475 seeking political asylum.

476 If the purpose of political asylum is to give asylum to
477 people fleeing the secret police, the Gestapo, the KGB, the
478 SAVAK, or whatever the secret police of some dictatorship is—
479 they are the people most deserving of political asylum, the
480 people who really have to fear persecution back in Iran or
481 the Soviet Union or Nazi Germany, or wherever—are exactly the
482 people who are not going to have proper documents, properly
483 countersigned by the KGB or the Gestapo or the SAVAK.

484 And they are the ones who are going to have, in order to
485 get out of where they are fleeing the tyranny, they are the
486 ones who are going to have forged documents. And we should
487 not penalize them for that.

488 So, I congratulate the gentlelady in her provision. I
489 yield back.

490 Chairman Conyers. I thank you.

491 I would like to commend Mr. Smith, who led in the
492 compromises that resulted in the amendment that has been
493 brought forth.

494 If there is no further discussion, all in favor of the
495 amendment signify by saying "aye."

496 Mr. Smith. Mr. Chairman? Mr. Chairman, I am going to
497 have some amendments to the amendment.

498 Chairman Conyers. Oh, okay. I recognize you for that
499 purpose.

500 Mr. Smith. Okay. Thank you, Mr. Chairman.

501 This is amendment number six, a second degree amendment
502 to the Lofgren amendment.

503 Chairman Conyers. The clerk will report.

504 The Clerk. Amendment offered by Mr. Smith of Texas to
505 the amendment offered by Ms. Zoe Lofgren of California, to
506 the amendment in the nature of a substitute to H.R. 6020.

507 Page three, after line 21, insert the following-

508 [The amendment by Mr. Smith follows:]

509 ***** INSERT *****

510 Chairman Conyers. Without objection, the amendment will
511 be considered as read.

512 The ranking member was recognized.

513 Mr. Smith. Thank you again, Mr. Chairman.

514 There are few crimes more reprehensible than domestic
515 violence and child abuse. For many years, these crimes
516 against women, children and the American family were not
517 treated with the seriousness they deserved. Unfortunately,
518 they were viewed as minor, as excusable, or as matters to be
519 resolved by families and not the courts.

520 Finally, dedicated victim advocates around the country
521 forced states to begin to recognize the terrible toll taken
522 by these crimes. States began enacting and enforcing
523 appropriately tough penalties against the perpetrators.

524 Certainly, the U.S. Congress got the message. The
525 immigration law now provides that aliens who commit the
526 crimes of domestic violence, stalking or child abandonment
527 are to be deported. And U.S. citizens who commit such acts
528 lose their Second Amendment rights and are prohibited from
529 possessing firearms.

530 Unfortunately, this bill disregards the voices of the
531 American people. This bill allows immigration judges to
532 choose the interest of the perpetrators of these crimes over
533 the interest of the victims.

534 My amendment strips from the bill the provision that

535 allows alien perpetrators of domestic violence and child
536 abuse to escape removal, simply because they once served in
537 the U.S. military or are the family members of persons who
538 served in the military.

539 This bill sets the disturbing precedent that, if an
540 alien belongs to a certain class, they may be excused from
541 removal after having been convicted of domestic violence or
542 child abuse. We can be sure that if this provision passes,
543 we will be inundated by requests to provide similar special
544 treatment to other groups of aliens.

545 So, let us put the interest of families over the
546 interest of criminals and approve this amendment.

547 Thank you, Chairman, and I will yield back.

548 Ms. Lofgren. Would the gentleman yield?

549 Mr. Smith. I will be happy—

550 Ms. Lofgren. For a question?

551 Mr. Smith. Yes, of course.

552 Ms. Lofgren. I am looking at section 212 of the
553 Immigration and Nationality Act. And E is certain aliens
554 involved in criminal activity who have asserted immunity from
555 prosecution. It would be diplomats entirely.

556 I am wondering—I am not seeing that the amendment that
557 the gentleman has offered deals with the section relative to
558 domestic violence.

559 Mr. Smith. We will take a look at section 212, as we

560 are doing right now.

561 Ms. Lofgren. Would the gentleman like to withdraw the
562 amendment and re-offer?

563 Mr. Smith. We believe that the gentlewoman is correct.
564 It is not section 212, it is section 237. So, I would ask
565 unanimous consent that it be that section that we are
566 referring to in the amendment.

567 Chairman Conyers. Without objection.

568 Ms. Lofgren. Well, then, Mr. Chairman, I would like to
569 be heard in opposition to the amendment.

570 We are not in the underlying bill.

571 Mr. Smith. And Mr. Chairman, I yield back the balance
572 of my time.

573 Chairman Conyers. The chair recognizes the gentlelady
574 from California.

575 Ms. Lofgren. We are not suggesting that these offenses
576 are unimportant or minor ones. We are mindful, however, that
577 there can be many traumatic events that happen to soldiers,
578 and I will give you an example.

579 We know that there is an epidemic of post-traumatic
580 stress disorder among American soldiers who have returned
581 from Iraq and Afghanistan. Sometimes those individuals may
582 engage in behavior that is not something we approve of. It
583 could be domestic violence. It could be other things.

584 What we are saying in the underlying bill is that, if we

585 have a soldier who does not have citizenship, and who is
586 involved in something that we all disagree with, that we
587 would allow a judge to take a look at the underlying factors
588 and to see whether or not we would honor that soldier's
589 service and permit a judgment to be made that we would not
590 deport that soldier, based on the underlying facts.

591 So, that is why, you know—believe me, I have spent half
592 my life working, especially at the local level, against child
593 abuse and domestic violence. But this just gives an
594 opportunity for a judge to take a look at the facts and see
595 whether a different judgment should be made, or whether that
596 soldier should just be—

597 Mr. Smith. Would the gentlewoman yield?

598 Ms. Lofgren. I would yield.

599 Mr. Smith. Briefly. I just want to clarify that she is
600 saying that this would apply not only to soldiers, who she
601 kept referring to, but also to the family of soldiers as
602 well. So, it is more extensive and expansive than just
603 soldiers.

604 The second point I would make is, part of our concern—
605 and this goes to all the members that we are going to be
606 talking about shortly—part of our concern is the history of
607 some of these immigration judges themselves. The abuses were
608 so great 10 years ago and before, the granting of—waiving of
609 immunity or the waiving of certain discretion—was so abused

610 by so many judges.

611 I remember one case where an individual was allowed to
612 stay in the United States, because if he were returned home,
613 he would not be able to watch baseball games on TV. That was
614 actually stated by the judge.

615 So, the reason for our concern for tightening up these
616 waivers is because of, frankly, abuses in the past. And that
617 is why I am so comfortable with some of these crimes,
618 particularly crimes like the child abuse-

619 Ms. Lofgren. Reclaiming my time, if-

620 Mr. Smith. -discretion-

621 Ms. Lofgren. -if I may. I think, you know, we have had
622 a hearing on this situation. We got extensive testimony from
623 a legal expert who does all the immigration issues for the
624 Department of Defense, who supports this bill, because there
625 are circumstances where you have to consider what is
626 happening to our soldiers and their families.

627 Now, you know, the gentleman and I had a difference of
628 opinion 12 years ago during the 1996 Act that persists to
629 this day. I think we went overboard in that act. But if
630 there is any concern, we have gone overboard in the other
631 direction.

632 We had an active duty member of the United States Navy
633 at our hearing, who was told by her commanding officer, that
634 if she deployed with her unit to Kuwait, they would have to

635 abandon her there, because she would have been considered to
636 have self-deported herself, because of a notice that she did
637 not even get, because she was deployed to Iraq.

638 So, I mean, if there was a problem in the early 1990s-
639 and I am not conceding there were--there is certainly a
640 problem in the other direction today. And we need to make
641 sure, as General Sanchez said in his letter, that we have the
642 ability to make sure that our American soldiers and their
643 families can keep on their mission and not be worried about
644 their families being deported, about them being deported.

645 And, you know, I think that, to allow a judge to make
646 this judgment, to take a look at the underlying facts, is
647 exactly the right way to go.

648 Mr. Gallegly. Would the gentlelady--

649 Ms. Lofgren. I would be happy to yield to the
650 gentleman.

651 Mr. Gallegly. Just a question for the gentlelady. The
652 reference you made to the female soldier, that if she
653 deployed to Iraq, she could be deported. Was her status
654 undocumented? Or was her status out-of-status?

655 What was her status?

656 Ms. Lofgren. She was a legal, permanent resident of the
657 United States, and a member of the United States Navy.

658 Mr. Gallegly. Well, how could they deport her, if she
659 was legally in the country by--what was the rationale for

660 that? I am somewhat perplexed.

661 Ms. Lofgren. Here is what happened. She was unable to
662 personally appear to file—

663 Chairman Conyers. The gentlelady has 1 additional
664 minute.

665 Ms. Lofgren. I thank the chairman.

666 To file, to remove a condition from her legal, permanent
667 residence, because she was not—I mean, she was not around.

668 Mr. Gallegly. You mean there would be a situation that
669 would have placed her out of status?

670 Ms. Lofgren. Well, because she did file a piece of
671 paper in person, because she could not, because she was in
672 the Navy, a notice to appear for a deportation was sent to an
673 address which she never got, because she was in Kuwait. And
674 then, a decision was made when she did not show up, because
675 she was with her unit.

676 And because she—that decision was made, if she had gone,
677 deployed to Kuwait, her commander correctly told her that
678 they would have to abandon her in Kuwait. That was our
679 witness at our hearing.

680 Mr. Gallegly. But she is still—

681 Mr. Davis. Mr. Chairman?

682 Mr. Gallegly. —in the United States.

683 Chairman Conyers. Yes.

684 Mr. Gallegly. Okay. I yield back.

685 Mr. Davis. Mr. Chairman?

686 Chairman Conyers. Yes.

687 Mr. Davis. Mr. Chairman, move to strike the last word.

688 Chairman Conyers. Artur Davis is recognized.

689 Mr. Davis. Move to strike the last word, Mr. Chairman.

690 I do not intend to take the 5 minutes, but I will pose a-

691 Chairman Conyers. Thank you.

692 Mr. Davis. -I will take a question, or I will pose a
693 question to Mr. Smith, the ranking member.

694 One of the things that I am curious about, Mr. Smith, is
695 a practical matter. How much fact-finding do these
696 immigration judges get to do?

697 I have one vision of hearings in which, frankly, as a
698 practical matter, they more or less have to take the
699 representation of the applicant and do not have an ability to
700 do a lot of fact-finding. I suppose I could imagine other
701 scenarios in which they may have some ability to subpoena
702 witnesses and conduct depositions.

703 I would be happy to yield to either you or Ms. Lofgren
704 and actually better educate the committee on this question,
705 because I think it is very relevant, particularly to your
706 amendment, Mr. Smith.

707 If, as a practical matter, if an immigration judge
708 cannot really conduct any fact-finding, and these carve-outs
709 become nothing other than invitation to an immigration judge

710 to say, this kind of crime I am less concerned about, I
711 frankly would be very sympathetic to your point of view.

712 Ms. Lofgren. Would the gentleman yield?

713 Mr. Davis. Well, if I could just finish my point.

714 If, on the other hand, there is a real opportunity to
715 conduct fact-finding, I might feel differently. But I would
716 be happy to yield to my friend from California.

717 Ms. Lofgren. These are administrative law proceedings.
718 They do not have the stature, I would say, of a district
719 court proceeding and the like. But there is an ability to
720 find facts. And there is also documentary evidence that can
721 be submitted, and I will give you an example on this very
722 point.

723 If you had—let us say that you are an American soldier.
724 You are a 19-year-old kid. You have lost your legs. You
725 have had a brain injury. You are at Bethesda. And your mom
726 is going to take care of you, just as she always has, as you
727 recover. But your mom is undocumented.

728 If your mom had a conviction, a domestic violence
729 conviction, 25 years ago, but that was it, a judge might make
730 one judgment. If there was a domestic violence conviction
731 last week, maybe a different judgment would be made, or maybe
732 not. Maybe the need for the mother to care for this soldier
733 might be so overwhelming.

734 But you certainly have readily available documentary

735 evidence and the ability, actually, to receive other
736 evidence.

737 I thank the gentleman for yielding.

738 Mr. Davis. Reclaiming my time, I yield to the gentleman
739 from Texas.

740 Mr. Smith. I thank the gentleman from Alabama.

741 A couple of points. One, it sounds like you were—
742 mischaracterized the context or what you were saying, or what
743 you were saying between the words. It sounds like you were
744 somewhat sympathetic to the amendments that I am offering,
745 because of the fact that the judge just may be hearing one
746 side, that being the immigrant side, or the alien side.

747 The second point to make is, as far as fact-finding
748 goes, or what fact-finding has occurred is, all the aliens we
749 are talking about in this situation had been convicted in
750 federal court, or they would not be in that situation of
751 being deported or removed from the country.

752 So, to the extent that fact-finding has occurred, it has
753 already been determined by a federal court that a crime has
754 been committed, and a serious crime has been committed.

755 Mr. Davis. Reclaiming my time, I would just end by
756 saying that I do think this is a generally closed question,
757 because, as a practical matter, I understand the intent of
758 this whole bill. It is to give immigration judges more
759 discretion to make a searching inquiry into the facts around

760 these cases.

761 But as a practical matter, I have a hunch that what
762 occurs is that the petitioner walks in, makes a
763 representation to the court, submits some documents. There
764 is not a practical ability to really subpoena witnesses or do
765 fact-finding.

766 So, in effect, the carve-outs are kind of an invitation
767 to a judge to say, these factors essentially are factors that
768 can be overlooked.

769 Ms. Lofgren. But would the gentleman further yield?

770 Mr. Davis. I would yield.

771 Ms. Lofgren. Because I think these are adversarial
772 proceedings. And there is direct and clause examination.

773 It is the government that has all, usually, the weight.
774 I mean, many of the individuals who are appearing do not have
775 access to counsel. There is no right to counsel, or there is
776 no government-provided counsel.

777 So, certainly, the weight of the evidence is generally
778 coming from the adversarial side, on the government's side.
779 The individual has an opportunity to rebut, to cross-examine,
780 but oftentimes does not even have a lawyer to help them do
781 that.

782 So, I think if there is any concern, it would really be
783 in the other direction, because that is where the bulk of the
784 heft, I guess, of the evidence-gathering is going to be.

785 And I thank the gentleman.

786 Mr. Davis. I yield back my time.

787 Chairman Conyers. Thank you.

788 Darrell Issa?

789 Mr. Issa. Thank you, Mr. Chairman.

790 And, regretfully, I am going to use my time to explain
791 to the other members on the dais that there appear to be two
792 Californias—one that is Ms. Lofgren's California and one that
793 is Congressman Darrell Issa's California, and before that
794 businessman Darrell Issa, and before that soldier Darrell
795 Issa.

796 I am going to support the amendment of the ranking
797 member, but I am going to go further. I am going to support
798 everything I can to convince the gentlelady that this is
799 inherently wrong minded and overreaching.

800 With all due respect to anyone on the dais, military
801 service is an obligation of America, and the reward that we
802 are proposing coming from honorable service seems to be a
803 just and reasonable one to consider here. But once you go
804 past that narrow understanding that, first of all, military
805 service is part of our obligation as Americans, and you must
806 conduct yourself at the highest level if you expect to have
807 this very special reward, we diminish everything that men and
808 women have done by serving in the military for 232 years.

809 With all due respect to the ranking member, I know he

810 has many more amendments—and I may be stepping on future
811 amendments—many, many more, Mr. Chairman.

812 This bill assumes that if you just show up as a weekend
813 warrior, get a little training for 90 days, and then get a
814 general discharge because you did not show up, you were AWOL,
815 you still get the benefit. That is the way it is written.
816 It is written without any real eye to what honorable service
817 is.

818 If you enter the United States military, and you serve
819 honorably, and you are on active duty, very quickly, you can
820 get U.S. citizenship. If you have U.S. citizenship, you can
821 very quickly begin to apply for family reunification, not
822 normalization of people here illegally, but family
823 reunification. Those benefits already exist.

824 We are here today going so far in the wrong direction.
825 Little by little, we have a slippery slope that says, "Well,
826 you do not have to do honorable service. You do not have to
827 do active duty service. You do not have to, in fact, be
828 anything other than a common criminal, maybe even an uncommon
829 criminal with all kinds of crimes, and if you slip into the
830 military service, you can get amnesty for your whole family."

831 That is what the current bill, even with the
832 gentle lady's improvements, is saying and doing. And I would
833 hope that Mr. King and other members, the ranking member, and
834 others on the dais would, over a period of time, today,

835 successfully turn this bill back to what I had hoped last
836 week the gentlelady was going to do. Those who serve at the
837 highest level of honorability on active duty, those who
838 actually go and put themselves at direct risk, those who—by
839 the way, I would agree with the gentlelady, if somebody comes
840 back with post-traumatic stress syndrome, I would support a
841 private bill to deal with the fact that they may have come
842 back with disorders that led to wrongful behavior that may
843 have been misjudged in the courts.

844 But you are talking about a private bill, or you are
845 talking about such a narrow case that we had better start
846 looking at service-connected disabilities and not just
847 anybody who beats their wife. This bill today in its present
848 form is anticipating that you can beat your wife, serve for
849 90 days, be discharged under dubious conditions, because I
850 know and the gentlelady hopefully does know that a general
851 discharge ain't nothing to write home positively about.
852 Basically, you get that if they have not court-martialed you
853 at the highest level. You can have Article 15 after Article
854 15. You can be AWOL. In in fact, we often give general
855 discharges to people who just leave basic training and never
856 return.

857 So, with all due respect to the ranking member—I
858 apologize for not speaking on your amendment directly, which
859 I will be supporting—this underlying bill still has so much

860 to fix that I would encourage the gentlelady to take it back
861 to what it originally was purported to be.

862 Ms. Lofgren. Would the gentleman yield?

863 Mr. Issa. And, of course, I would yield to the ranking
864 member.

865 Ms. Lofgren. I would just note that the standard in
866 here for discharge is the exact same standard we use for
867 naturalization today, and I thank the gentleman for yielding.

868 Mr. Issa. And reclaiming my time, if the gentlelady
869 would study what a general discharge is and how one can be
870 received, I think, in fact, we need to look long and hard.
871 And for any of us who have served in the military, and
872 particularly as officers, I know how many dirt bags got
873 general discharges, and dirt bag is cleaning up the term we
874 use for them in the military.

875 With that, Mr. Chairman, I yield back.

876 Chairman Conyers. I thank the gentleman.

877 The question is on the Smith amendment to the Lofgren
878 amendment.

879 All those—

880 Mr. Smith. Mr. Chairman, I will not ask for a recorded
881 vote on all amendments, but I think this one does warrant a
882 recorded vote, assuming we have a proper quorum. So I would
883 ask for a recorded vote.

884 Chairman Conyers. Absolutely.

885 The clerk will call the roll.
886 The Clerk. Mr. Conyers?
887 Chairman Conyers. No.
888 The Clerk. Mr. Conyers votes no.
889 Mr. Berman?
890 [No response.]
891 Mr. Boucher?
892 [No response.]
893 Mr. Nadler?
894 [No response.]
895 Mr. Scott?
896 Mr. Nadler?
897 Mr. Nadler. No.
898 The Clerk. Mr. Nadler votes no.
899 Mr. Scott?
900 Mr. Scott. No.
901 The Clerk. Mr. Scott votes no.
902 Mr. Watt?
903 [No response.]
904 Ms. Lofgren?
905 Ms. Lofgren. No.
906 The Clerk. Ms. Lofgren votes no.
907 Ms. Jackson Lee?
908 [No response.]
909 Ms. Waters?

910 [No response.]
911 Mr. Delahunt?
912 [No response.]
913 Mr. Wexler?
914 [No response.]
915 Ms. Sanchez?
916 Ms. Sanchez. Pass.
917 The Clerk. Ms. Sanchez passes.
918 Mr. Cohen?
919 Mr. Cohen. No.
920 The Clerk. Mr. Cohen votes no.
921 Mr. Johnson?
922 [No response.]
923 Ms. Sutton?
924 [No response.]
925 Mr. Gutierrez?
926 [No response.]
927 Mr. Sherman?
928 [No response.]
929 Ms. Baldwin?
930 [No response.]
931 Mr. Weiner?
932 Mr. Weiner. No.
933 The Clerk. Mr. Weiner votes no.
934 Mr. Schiff?

935 [No response.]
936 Mr. Davis?
937 Mr. Davis. Pass.
938 The Clerk. Mr. Davis passes.
939 Ms. Wasserman Schultz?
940 [No response.]
941 Mr. Ellison?
942 [No response.]
943 Mr. Smith?
944 Mr. Smith. Aye.
945 The Clerk. Mr. Smith votes aye.
946 Mr. Sensenbrenner?
947 [No response.]
948 Mr. Coble?
949 [No response.]
950 Mr. Gallagly?
951 [No response.]
952 Mr. Goodlatte?
953 Mr. Goodlatte. Aye.
954 The Clerk. Mr. Goodlatte votes aye.
955 Mr. Chabot?
956 Mr. Chabot. Aye.
957 The Clerk. Mr. Chabot votes aye.
958 Mr. Lungren?
959 [No response.]

960 Mr. Cannon?
961 [No response.]
962 Mr. Keller?
963 [No response.]
964 Mr. Issa?
965 Mr. Issa. Aye.
966 The Clerk. Mr. Issa votes aye.
967 Mr. Pence?
968 [No response.]
969 Mr. Forbes?
970 [No response.]
971 Mr. King?
972 Mr. King. Aye.
973 The Clerk. Mr. King votes aye.
974 Mr. Feeney?
975 [No response.]
976 Mr. Franks?
977 Mr. Franks. Aye.
978 The Clerk. Mr. Franks votes aye.
979 Mr. Gohmert?
980 [No response.]
981 Mr. Jordan?
982 [No response.]
983 Chairman Conyers. Ms. Sanchez?
984 The Clerk. Ms. Sanchez passed.

985 Ms. Sanchez. No.

986 The Clerk. Ms. Sanchez votes no.

987 Chairman Conyers. Ms. Waters?

988 Ms. Waters. No.

989 Chairman Conyers. Ms. Waters votes no.

990 Chairman Conyers. Mr. Ellison?

991 Mr. Ellison. No.

992 The Clerk. Mr. Ellison votes no.

993 Chairman Conyers. Yes. Chris Cannon?

994 Mr. Cannon. No.

995 The Clerk. Mr. Cannon votes no.

996 Mr. Davis. How am I recorded, Mr. Chairman? How am I

997 recorded?

998 The Clerk. Mr. Davis passed.

999 Mr. Davis. Mr. Davis votes aye.

1000 Chairman Conyers. Mr. Gutierrez?

1001 The Clerk. Mr. Davis votes aye.

1002 Chairman Conyers. Mr. Gutierrez?

1003 Mr. Gutierrez. No.

1004 The Clerk. Mr. Gutierrez votes no.

1005 Chairman Conyers. Any other members who choose to cast

1006 their vote?

1007 The clerk will report.

1008 The Clerk. Mr. Chairman, 10 members voted no; eight

1009 members voted aye.

1010 Ms. Lofgren. Mr. Chairman?

1011 Chairman Conyers. Yes, Mr. Wexler?

1012 Mr. Wexler. May I vote no?

1013 Chairman Conyers. Yes.

1014 Mr. Issa. Mr. Chairman?

1015 Chairman Conyers. Yes, Mr. Issa?

1016 Mr. Issa. How am I recorded?

1017 Chairman Conyers. I have no idea.

1018 Mr. Issa wishes to know how he voted.

1019 The Clerk. Mr. Issa voted aye.

1020 Mr. Issa. I am still an aye. Thank you.

1021 Chairman Conyers. The clerk will report.

1022 Ms. Baldwin?

1023 Ms. Baldwin. No.

1024 The Clerk. Mr. Chairman, I need to know Mr. Cannon's
1025 vote.

1026 Mr. Cannon. No.

1027 Chairman Conyers. His vote was no.

1028 Brad Sherman?

1029 Mr. Sherman. No.

1030 Mr. Delahunt. Mr. Chairman?

1031 Chairman Conyers. Mr. Delahunt?

1032 Mr. Delahunt. Mr. Delahunt votes no.

1033 The Clerk. Mr. Delahunt votes no.

1034 Chairman Conyers. Mr. Gallegly?

1035 Mr. Gallegly. Aye.

1036 The Clerk. Mr. Gallegly votes aye.

1037 Mr. Chairman, 14 members voted no; eight members voted
1038 yes.

1039 Chairman Conyers. The amendment fails.

1040 And the Chair recognizes Darrell Issa for an amendment.

1041 Mr. Issa. Thank you, Mr. Chairman.

1042 I have an amendment at the desk, the short one that
1043 begins "Page 2."

1044 Ms. Lofgren. I reserve a point of order, since I have
1045 not seen the amendment.

1046 Chairman Conyers. A point of order is reserved by the
1047 Chair of Immigration.

1048 The Clerk. Amendment to the amendment offered by Ms.
1049 Zoe Lofgren to the amendment in the nature of a substitute to
1050 H.R. 6020 offered by Mr. Darrell Issa of California. "Page 2
1051 Line 11, strike 'or' and after 'active duty status,' insert
1052 'not for training'."

1053 [The amendment by Mr. Issa follows:]

1054 ***** INSERT *****

1055 Chairman Conyers. Without objection, the amendment is
1056 considered as read.

1057 And the distinguished gentleman from California is
1058 recognized.

1059 Mr. Issa. Mr. Chairman, does the gentlelady withdraw
1060 her reservation?

1061 Ms. Lofgren. Yes, I believe it is germane.

1062 Mr. Issa. Mr. Chairman, this is a short, and I think,
1063 important amendment. In reading the language of the
1064 gentlelady from California's amendment in the form of a
1065 substitute, I discovered two things.

1066 One is that the underlying amendment would, because of
1067 the "or" in the language, say you could be a reservist or you
1068 could do these other things. Well, just being a reservist is
1069 certainly not good enough.

1070 Additionally, when we go to active duty, which is the
1071 other half after the "or," there are two reasons you go to
1072 active duty, if you are a reservist. One of them is you are
1073 activated, and you go to war, or you go to perform duties
1074 essential to the national security. The other one is you go
1075 to training. Now getting 90 days by going to basic training
1076 and advanced individual training, using the Army example, I
1077 am sorry, but that ain't special. That is a guarantee of
1078 every reservist.

1079 The intent of this bill was to deal with those who put

1080 themselves in harm's way who were honorably discharged. This
1081 would tighten it up so that it would be those who served on
1082 active duty or other than simply going to, as the Chairman
1083 knows, basic and AIT.

1084 So that is it. I would like it to be more than boot
1085 camp to get yourself this amnesty, and with that, I would
1086 encourage the passing of the simple amendment and yield back.

1087 Ms. Lofgren. Mr. Chairman?

1088 Chairman Conyers. The gentlelady from California?

1089 Ms. Lofgren. Page 2, Line 11 is number 4, Subsection
1090 (a)(6)(E). So the amendment that has been offered does not
1091 actually contain anything about active duty status on Page 2,
1092 Line 11, of the amendment.

1093 Mr. Issa. I am reading from your amendment which
1094 begins, "Page 2, strike," and-

1095 Ms. Lofgren. No. No, it appends Page 2.

1096 Mr. Issa. And it appends-

1097 Ms. Lofgren. Page 2 of the amendment on Line 11-you
1098 have misdrafted this.

1099 Mr. Issa. Right. And we will have it redrafted, and I
1100 would ask unanimous consent to withdraw it and redraft it
1101 since it is so short.

1102 Chairman Conyers. Are there further amendments?

1103 Mr. King. Mr. Chairman?

1104 Chairman Conyers. Yes, the gentleman from Iowa is

1105 recognized for an amendment.

1106 Mr. King. Thank you, Mr. Chairman.

1107 I have an amendment to the amendment in the nature of a
1108 substitute identified as King Amendment Number 5.

1109 Ms. Lofgren. I reserve a point of order, since I have
1110 not seen the amendment.

1111 Chairman Conyers. A point of order is reserved by the
1112 Immigration Chair.

1113 Number 5. King Number 5. We do not happen to have it.

1114 Mr. King. On its way, Mr. Chairman.

1115 The Clerk. Amendment offered by Steve King to the
1116 amendment offered by Ms. Zoe Lofgren of California to the
1117 amendment in the nature of a substitute to H.R. 6020. "Page
1118 2, Line 7, insert (a)(I) before (C). Page 3, beginning on
1119 Line 4"—

1120 [The amendment by Mr. King follows:]

1121 ***** INSERT *****

1122 Chairman Conyers. Without objection, the amendment will
1123 be considered as read.

1124 And the gentleman from Iowa is recognized in support of
1125 his amendment.

1126 Mr. King. Thank you, Mr. Chairman.

1127 Mr. Chairman, this is a moral turpitude amendment. You
1128 know, I do not want to allow liberal immigration judges the
1129 authority to waive the ground of deportation for crimes of
1130 moral turpitude.

1131 You know, what is such a crime? Well, I will quote the
1132 authoritative immigration "Hornbook" written by Robert Devine
1133 and Blake Chism. This is a quote from the book: "In
1134 general, moral turpitude involves conduct involving an
1135 element of fraud, dishonesty, or malicious intent, including
1136 threatening behavior, but may not include an involuntary
1137 manslaughter, for example, assault or regulatory violations."

1138 The competing "Hornbook" often referred to as Gordon-
1139 Mailman, says that one frequently used definition describes
1140 moral turpitude as "connoting an act of baseness, vileness,
1141 and depravity in the private and the social duties that a
1142 person owes to his or her fellow beings."

1143 Now why we would want to allow such aliens to remain in
1144 the United States is a question that we might best ask
1145 anybody that provides, let me say, a substantive amendment
1146 that would allow this. But, in any case, my amendment

1147 strikes the bill's wavier of deportation for crimes of moral
1148 turpitude of which I have described.

1149 And, you know, there is much to be examined in this
1150 underlying bill, Mr. Chairman, and even though there are a
1151 number of crimes that have been included in the substitute
1152 amendment, in the amendment in the nature of a substitute, it
1153 does not include the things that this Congress has in the
1154 past found to be egregious.

1155 And I have to also in this opening that I have go back
1156 to some point of clarification, and that is the statement
1157 made by the gentlelady from California that she did not
1158 understand my point, and I would point out that the ranking
1159 member understood my point. So I have gone back and looked
1160 at the testimony of Monica Goodling before this committee,
1161 and I thought I remembered it correctly, and that testimony
1162 says to me that she was testifying about appointments on the
1163 prosecution side, not judicial appointments, by my
1164 recollection.

1165 I do not think she ever referred to judicial
1166 appointments, but she did say, "I do acknowledge that I may
1167 have gone too far in asking political questions." Now that
1168 is her response that is her zone of influence and
1169 responsibility, but it does not equate to judicial
1170 appointments at all, and it does not equate to a policy that
1171 has been advocated or perpetrated by the Bush administration.

1172 These liberal judges that I am seeking to maintain their
1173 restraint on that was established in 1996—many of them were
1174 appointed by previous administrations. Some of them were
1175 appointed by this administration. No one has a filter system
1176 that is able to clean out judicial activism.

1177 I would like to think that in this Judiciary Committee
1178 where we have a Constitution Subcommittee—and I am proud to
1179 sit on that committee—that we really do adhere to the text of
1180 the Constitution as it was understood to mean at its time of
1181 ratification, and we do not need judges that take the
1182 latitude upon themselves, and we certainly do not need judges
1183 that are turning people loose or granting them a path to
1184 citizenship because it hurts their heart to have to say no.

1185 They should be constrained to sticking with the law,
1186 that is why we have passed a law, and that is why I oppose
1187 opening this legislation up. So moral turpitude is a piece
1188 that I think we need to hold together and not give judicial
1189 latitude because there is plenty of latitude that they will
1190 take if you let them have it. History has shown that.

1191 But as far as the blanket allegation that has painted
1192 the entire administration based upon a line in the testimony
1193 that came before this committee that was not relevant to the
1194 discussion, I just have to reiterate that point, and I would
1195 ask my colleagues to take a look at these crimes of moral
1196 turpitude and understand that we do not need to be rewarding

1197 people with the path to citizenship who have conducted that
1198 kind of behavior, whether they serve for the military or
1199 whether they are an extended family member of someone who has
1200 served in the military, that is my point.

1201 And I think the public will be outraged if we cannot—
1202 with roughly 6 billion people on the planet, many of them
1203 would love to come to the United States. Maybe even a
1204 majority of them would love to come to the United States. We
1205 should be setting up a filter system that identifies the very
1206 best people to come here and not simply carte blanche for
1207 someone who would fit this category. So, therefore, we are
1208 going to allow everyone that might fit this category to come
1209 to the United States and immediately get a path to
1210 citizenship.

1211 So I urge adoption of my second-degree amendment, and I
1212 yield back the balance of my time.

1213 Chairman Conyers. I thank the gentleman.

1214 Ms. Lofgren. Mr. Chairman?

1215 Chairman Conyers. Yes, the gentlelady from California?

1216 Ms. Lofgren. I withdraw my point of order. The
1217 amendment is, indeed, germane, although quite misguided.

1218 I was bemused to hear Blake Chism, who is a member of
1219 the majority legal staff, quoted because, in fact, he is the
1220 author of one of the main references for immigration law in
1221 the United States, and he has just advised me that a crime of

1222 moral turpitude under the law would include jumping a
1223 turnstile, stealing a candy bar, or any theft crime.

1224 So I think it is important to know why we would need to
1225 have discretion on the part of the judge to make some
1226 judgments about either soldiers or their families, and I will
1227 just give you a hypothetical. You have, again, the young
1228 man, 19-year-old American citizen, who has come back with
1229 Iraq with tremendous injuries, and his wife is a legal
1230 permanent resident of the United States, but several years
1231 ago, she stole a candy bar, a crime of moral turpitude. That
1232 wife would become deportable, and there is really no
1233 discretion. We have given no discretion to the judges to
1234 make a different judgment based on the actual facts of the
1235 case.

1236 Certainly, there are crimes of moral turpitude that are
1237 heinous and should be disqualifying for any benefit, and
1238 there are crimes of moral turpitude, like jumping a
1239 turnstile, stealing a candy bar, stealing a can of Coke, that
1240 we might not approve of, but we would not think would be a
1241 good reason to deport the widow or the wife of an American
1242 soldier, and that is why this amendment is so misguided and
1243 so misplaced, and—

1244 Chairman Conyers. The Chair—

1245 Ms. Lofgren. —that is why I strongly oppose it.

1246 Chairman Conyers. —is prepared to call the question on—

1247 Ms. Lofgren. Thank you.

1248 Chairman Conyers. —on the amendment.

1249 Mr. Smith. I have a quick statement.

1250 Chairman Conyers. Oh, Mr. Smith?

1251 Mr. Smith. Thank you, Mr. Chairman.

1252 Mr. Chairman, it is appropriate that the chair of the
1253 Immigration Subcommittee in her comments just a minute ago
1254 spoke in terms of hypotheticals because I think that is a
1255 very accurate term and adjective to use when addressing or
1256 when speaking about the kinds of examples she spoke about
1257 because I do not know of a single actual instance where
1258 anyone has been convicted of a crime of moral turpitude for
1259 jumping a turnstile or for stealing a candy bar. So those
1260 are truly hypothetical, not actual—

1261 Ms. Lofgren. Would the gentleman yield?

1262 Mr. Smith. I will, but let me finish my entire
1263 statement, and then I will be happy to yield because I will
1264 have time.

1265 Mr. Chairman, I do support this amendment. The ranking
1266 member of the Immigration Subcommittee a minute ago quoted
1267 the appropriate "Hornbook". Let me quote "Black's Law
1268 Dictionary" because it defines moral turpitude as "shameful
1269 wickedness so extreme a departure from the ordinary standards
1270 of honesty, good morals, justice, or ethics as to be shocking
1271 to the moral sense of the community"; also, "an act of

1272 baseness, vileness, or depravity in the private and social
1273 duties which one person owes to another or to society in
1274 general, contrary to the accepted and customary rule of right
1275 and duty between people."

1276 So why is it good public policy to allow aliens
1277 convicted of such actions to remain in the United States?
1278 Certainly, we do not teach our children to commit acts of
1279 shameful wickedness. An immigration policy that allows
1280 aliens to remain in the U.S. who have been convicted of
1281 crimes involving moral turpitude is simply not good for
1282 Americans.

1283 Mr. King's amendment strikes the provision of the bill,
1284 but excused such crimes, and I urge my colleagues to support
1285 the amendment.

1286 And I will now yield to the gentlewoman from California,
1287 Ms. Lofgren.

1288 Ms. Lofgren. I thank the gentleman for yielding.
1289 Briefly—I know we want to get to a vote—I would be happy to
1290 provide you with actual cases: the woman who was deported
1291 based on her crime of moral turpitude, to wit she stole a
1292 video cassette, or the young woman who was adopted at age 2,
1293 got in a fight with another girl over a boy, pulled that
1294 girl's hair and was deported based on the fight that she had
1295 and the hair-pulling incident. These things do happen, and—

1296 Mr. Smith. Would the gentlewoman yield real quickly?

1297 Ms. Lofgren. I would yield.

1298 Mr. Smith. Were any of these individuals accused of
1299 crimes of moral turpitude or any other crimes?

1300 Ms. Lofgren. Yes. Yes. My understanding is the crime
1301 of moral turpitude in the case of the video cassette was the
1302 theft crime. I can also tell you in California of instances
1303 where individuals were prosecuted and convicted for stealing
1304 a six-pack of beer, and since it was a second petty theft, it
1305 was adjudicated a felony.

1306 So these things occur, and it is the reason why we
1307 cannot accept this amendment. I thank the gentleman for
1308 yielding, and I think the disagreement here is clear and hope
1309 we can vote on the amendment.

1310 Mr. Cannon. Would the gentleman yield?

1311 Mr. Smith. Can I yield to the gentleman from Utah.

1312 Mr. Cannon. The gentleman from Utah.

1313 Mr. Smith. Sure. I want to yield to the gentleman from
1314 Utah, but I will—

1315 Mr. Cannon. Because of the way you are facing, I am on
1316 your left, I realize, but I am on the audience's right.

1317 Mr. Smith. I will yield back, Mr. Chairman.

1318 Chairman Conyers. The question is on the amendment.

1319 All those in favor, say "aye."

1320 [A chorus of ayes.]

1321 Chairman Conyers. All those opposed, say "no."

1322 [A chorus of noes.]

1323 Chairman Conyers. The "ayes" have it.

1324 Mr. King. Mr. Chairman?

1325 Chairman Conyers. A recorded vote—

1326 Ms. Lofgren. Mr. Chairman, I do not believe the "ayes"

1327 do have it, so I would like a recorded vote.

1328 Chairman Conyers. A recorded—

1329 Mr. Smith. There is more on this side than on that

1330 side.

1331 Chairman Conyers. Yes.

1332 Mr. Smith. A very quick recorded vote.

1333 Chairman Conyers. The clerk will call the roll.

1334 The Clerk. Mr. Conyers?

1335 Chairman Conyers. No.

1336 The Clerk. Mr. Conyers votes no.

1337 Mr. Berman?

1338 [No response.]

1339 Mr. Boucher?

1340 [No response.]

1341 Mr. Nadler?

1342 [No response.]

1343 Mr. Scott?

1344 Mr. Scott. No.

1345 The Clerk. Mr. Scott votes no.

1346 Mr. Watt?

1347 [No response.]
1348 Ms. Lofgren?
1349 Ms. Lofgren. No.
1350 The Clerk. Ms. Lofgren votes no.
1351 Ms. Jackson Lee?
1352 [No response.]
1353 Ms. Waters?
1354 [No response.]
1355 Mr. Delahunt?
1356 [No response.]
1357 Mr. Wexler?
1358 [No response.]
1359 Ms. Sanchez?
1360 Ms. Sanchez. No.
1361 The Clerk. Ms. Sanchez votes no.
1362 Mr. Cohen?
1363 [No response.]
1364 Mr. Johnson?
1365 [No response.]
1366 Ms. Sutton?
1367 [No response.]
1368 Mr. Gutierrez?
1369 [No response.]
1370 Mr. Sherman?
1371 [No response.]

1372 Ms. Baldwin?
1373 Ms. Baldwin. No.
1374 The Clerk. Ms. Baldwin votes no.
1375 Mr. Weiner?
1376 Mr. Weiner. No.
1377 The Clerk. Mr. Weiner votes no.
1378 Mr. Schiff?
1379 Mr. Schiff. No.
1380 The Clerk. Mr. Schiff votes no.
1381 Mr. Davis?
1382 [No response.]
1383 Ms. Wasserman Schultz?
1384 Ms. Wasserman Schultz. No.
1385 The Clerk. Ms. Wasserman Schultz votes no.
1386 Mr. Ellison?
1387 Mr. Ellison. No.
1388 The Clerk. Mr. Ellison votes no.
1389 Mr. Smith?
1390 Mr. Smith. Aye.
1391 The Clerk. Mr. Smith votes aye.
1392 Mr. Sensenbrenner?
1393 [No response.]
1394 Mr. Coble?
1395 [No response.]
1396 Mr. Gallagly?

1397 Mr. Gallegly. Aye.

1398 The Clerk. Mr. Gallegly votes aye.

1399 Mr. Goodlatte?

1400 Mr. Goodlatte. Aye.

1401 The Clerk. Mr. Goodlatte votes aye.

1402 Mr. Chabot?

1403 Mr. Chabot. Aye.

1404 The Clerk. Mr. Chabot votes aye.

1405 Mr. Lungren?

1406 [No response.]

1407 Mr. Cannon?

1408 Mr. Cannon. No.

1409 The Clerk. Mr. Cannon votes no.

1410 Mr. Keller?

1411 [No response.]

1412 Mr. Issa?

1413 Mr. Issa. Aye.

1414 The Clerk. Mr. Issa votes aye.

1415 Mr. Pence?

1416 [No response.]

1417 Mr. Forbes?

1418 [No response.]

1419 Mr. King?

1420 Mr. King. Aye.

1421 The Clerk. Mr. King votes aye.

1422 Mr. Feeney?

1423 [No response.]

1424 Mr. Franks?

1425 Mr. Franks. Aye.

1426 The Clerk. Mr. Franks votes aye.

1427 Mr. Gohmert?

1428 [No response.]

1429 Mr. Jordan?

1430 [No response.]

1431 Mr. Coble. Aye. Coble votes aye.

1432 Chairman Conyers. Coble. Mr. Coble.

1433 The Clerk. Mr. Coble votes aye.

1434 Chairman Conyers. Mr. Gutierrez?

1435 Mr. Gutierrez. No.

1436 The Clerk. Mr. Gutierrez votes no.

1437 Chairman Conyers. Mr. Watt?

1438 Mr. Watt. No.

1439 The Clerk. Mr. Watt votes no.

1440 Chairman Conyers. Mr. Nadler?

1441 Mr. Nadler. No.

1442 The Clerk. Mr. Nadler votes no.

1443 Chairman Conyers. Mr. Delahunt?

1444 Mr. Delahunt. No.

1445 The Clerk. Mr. Delahunt votes no.

1446 Chairman Conyers. Mr. Cohen?

1447 Mr. Cohen. No.
1448 The Clerk. Mr. Cohen votes no.
1449 Chairman Conyers. The clerk will report.
1450 The Clerk. Mr. Chairman, 15 members voted no; eight
1451 members voted aye.
1452 Chairman Conyers. The noes have it, and the amendment
1453 fails.
1454 The Chair recognizes Lamar Smith.
1455 Mr. Smith. Mr. Chairman, I have Amendment Number 7, a
1456 second-degree amendment to the Lofgren amendment at the desk.
1457 Chairman Conyers. The clerk will report.
1458 The Clerk. Amendment offered by Mr. Smith of Texas to
1459 the amendment offered by Ms. Zoe Lofgren of California to the
1460 amendment in the nature of a substitute to H.R. 6020. "Page
1461 2, Line 12"—

1462 [The amendment by Mr. Smith follows:]

1463 ***** INSERT *****

1464 Chairman Conyers. Without objection, the amendment will
1465 be considered as read.

1466 The ranking member is recognized in support of his
1467 amendment.

1468 Mr. Smith. Thank you, Mr. Chairman.

1469 Mr. Chairman, I am sincerely grateful for the efforts
1470 made by the Chairwoman of the Immigration Subcommittee to
1471 improve this bill. However, we have not been able to reach
1472 agreement regarding the criminal waivers available under the
1473 bill. That is obvious. I simply cannot agree that a veteran
1474 or a military family member with an aggravated felony offense
1475 should be eligible for a waiver.

1476 Let's take a look at how fraud is defined in the
1477 "aggravated felony" definition. It only covers offenses
1478 involving fraud or deceit where the loss to the victim or
1479 victims is more than \$10,000. It would be difficult to
1480 categorize such a loss as a minor offense against the victim,
1481 and, of course, this is only the minimum. Many of the
1482 aggravated felony fraud offenses involve even greater amounts
1483 and involve losses in the millions of dollars.

1484 It is hard to imagine circumstances under which a fraud
1485 crime involving at least \$10,000 would warrant a
1486 discretionary waiver. Keep in mind that Congress has already
1487 decided that an aggravated felony fraud offense makes any
1488 alien ineligible for almost every possible relief from

1489 removal even asylum. But this bill would allow a sympathetic
1490 immigration judge to weigh this criminal ground of
1491 deportability for someone who recently arrived, overstayed
1492 their visa, and has been here only months just because of the
1493 family relationship of an active duty soldier who may or may
1494 not be a citizen.

1495 It is a slippery slope when we start to carve out
1496 exceptions to the law or legislate by anecdote. Congress has
1497 decided that a multi-thousand-dollar fraud offense is so
1498 serious that it bars virtually every kind of relief from
1499 removal. Our sympathies should lie with the victims of such
1500 crimes, not with the criminal aliens. I agree with the
1501 American Legion in believing that the soldiers who fight to
1502 uphold the law and their family members are not above the
1503 law.

1504 And, Mr. Chairman, I just want to say for the public
1505 record that the statement that the gentleman from California,
1506 Mr. Issa, made a few minutes ago is perhaps one of the most
1507 eloquent, most persuasive statements I have ever heard on the
1508 subject of immigration, and I want to thank him for making
1509 that statement a while ago. He spoke not only from the
1510 heart, but from experience, and, as he mentioned, the
1511 experience comes from not only serving as a Member of
1512 Congress and being familiar with immigration law, but with
1513 having served as a soldier himself, and I appreciate his

1514 remarks considerably.

1515 And I will yield back.

1516 Chairman Conyers. I thank the gentleman.

1517 Who seeks recognition?

1518 Ms. Lofgren. Mr. Chairman?

1519 Chairman Conyers. Yes, the gentlelady from California
1520 is recognized.

1521 Ms. Lofgren. I oppose the amendment and would ask that
1522 we object to it because what we are talking about here is the
1523 ability, again, of a judge to take a look at the actual
1524 circumstances of a determination that has been made about the
1525 family member or an American soldier to determine whether
1526 that offense is so serious that the widow of a dead American
1527 soldier should be deported or the mother of a soldier in
1528 Bethesda should be deported, and I think that we need to be
1529 able to allow a judge to make those determinations.

1530 Financial problems tend to be multiples, if I can put it
1531 in that way, and convictions can be had when an individual's
1532 guilt was tangential. For example, individuals who might be
1533 married to someone who commits a mortgage fraud or who
1534 misrepresented income on a mortgage document could be guilty
1535 of that offense because they signed the application for the
1536 mortgage. But a spouse might not really be a bad actor.
1537 This would give an opportunity for an immigration judge to
1538 take a look, for example, at the presentence reports and to

1539 see if someone pled guilty to an offense for which—certainly,
1540 we do not approve of it, but where they were tangentially
1541 involved in that, in such a case, we might make a decision
1542 that really benefits the soldier, that benefits the veteran.

1543 It is not an automatic decision, but, once again, it
1544 allows discretion to be used to benefit American soldiers and
1545 their families. I think it is a misguided amendment, and I
1546 would urge its defeat.

1547 Chairman Conyers. The question occurs on—

1548 Mr. King. Mr. Chairman? Mr. Chairman?

1549 Chairman Conyers. Yes? Steve King?

1550 Mr. King. I move to strike the last word.

1551 Chairman Conyers. The gentleman is recognized.

1552 Mr. King. Thank you, Mr. Chairman.

1553 I was not going to speak on this amendment, but that
1554 word "misguided" does tend to cause a little flutter over
1555 here on my side.

1556 When we are talking about the reasoned and rational
1557 approach on the part of Mr. Smith on this amendment is to
1558 protect the American people and help to grow this society and
1559 the culture that is America, and this is an amendment that
1560 disallows a waiver for someone who has been guilty of
1561 committing fraud in the amount of \$10,000 or more. I cannot
1562 get to the point where it could be misguided to try to
1563 protect the American people from someone who has willfully

1564 perpetrated fraud.

1565 \$10,000 or more is not an accident, it is not being
1566 caught up in some web, it is not being friends with the wrong
1567 people, and it is not accidentally walking out of a store
1568 with a candy bar in your hand or jumping the turnstile. This
1569 is a real violation, and it takes real willfulness to find
1570 yourself in a situation where you can be found guilty of
1571 fraud, and the \$10,000 or more, I mean, is a big crime. It
1572 is grand larceny where I come from, it is a felony where I
1573 come from, and to minimize a violation like that and think
1574 that that could be part of the composition that we would like
1575 to attract to come to America to shape this country into the
1576 next generations, I do not think is just misguided at all,
1577 Mr. Chairman.

1578 I think it is utterly correctly guided. It is guided on
1579 the foundational principles, if we go back to the Federalist
1580 papers and the Constitution, and the entire principles that
1581 inspired the founders to come here. It was about the rule of
1582 law, it was about character, and it was about the foundations
1583 of justice, and I think this is a very good amendment, and I
1584 cannot imagine how it can be characterized misguided.

1585 I can understand why people could vote against it. I
1586 think that adjective does apply to those folks.

1587 I thank you, Mr. Chairman. I yield back.

1588 Chairman Conyers. I thank the gentleman.

1589 Mr. Issa. Mr. Chairman?

1590 Chairman Conyers. The question—

1591 Mr. Issa. Mr. Chairman?

1592 Chairman Conyers. Darrell Issa?

1593 Mr. Issa. Thank you. I move to strike the last word.

1594 I will be brief because it can only downhill from the ranking

1595 member's comments earlier.

1596 Chairman Conyers. The gentleman is recognized.

1597 Mr. Issa. Thank you, Mr. Chairman.

1598 You know, I think it is appropriate to respond to the

1599 subcommittee Chairwoman in that I appreciate many of the

1600 examples that she gave, but this bill, like any bill that we

1601 produce, has to be narrow in the privileges we give to a

1602 judge.

1603 What the gentlelady is implying in this legislation,

1604 which I believe is different than the example she gave, is

1605 essentially that immigration judges are like Solomon, and

1606 they can sit there all knowing and all wise, and they can

1607 make these decisions. So, of course, what we should do is

1608 simply say, "You decide whether to let people in or not based

1609 on whether they will be good citizens."

1610 We could write that law relatively quickly, Mr.

1611 Chairman. I suspect that it could—it has probably been

1612 written already. It just has not quite bubbled up to us.

1613 But that is what we are being asked today to do, is to

1614 broaden the discretion to judges as though they were Solomon
1615 rather than saying, "No."

1616 The privilege of being an American—and, to be honest, in
1617 this case, the extension of the privilege of an expanded
1618 family becoming Americans—is a privilege which we guard and
1619 we guard closely in this country. It is not a right for 6
1620 billion to join 300 million people and become citizens.

1621 Therefore, limiting that is our obligation, and we
1622 cannot simply say we trust judges, no matter who appointed
1623 them. We cannot say we have judges that have all the
1624 discretion in the world.

1625 Now I joined with, I am sure, everyone on the dais, if
1626 the gentlelady wants to put in specific carve-outs for the
1627 exigent circumstances that she sometimes describes, we should
1628 work together on that, but, today, we have to consider what
1629 is in front of us. It is so overly broad that it must be
1630 amended significantly or the bill should be pulled and
1631 reconsidered by the author.

1632 With that, I yield back and thank the Chairman.

1633 Chairman Conyers. The question is on the amendment.

1634 All those in favor, indicate by saying "aye."

1635 Mr. King. Mr. Chairman, for \$10,000-plus, I think we
1636 ought to have a recorded vote, too. Thank you.

1637 Chairman Conyers. The clerk will call the roll.

1638 The Clerk. Mr. Conyers?

1639 Chairman Conyers. No.

1640 The Clerk. Mr. Conyers votes no.

1641 Mr. Berman?

1642 [No response.]

1643 Mr. Boucher?

1644 [No response.]

1645 Mr. Nadler?

1646 [No response.]

1647 Mr. Scott?

1648 [No response.]

1649 Mr. Watt?

1650 [No response.]

1651 Ms. Lofgren?

1652 Ms. Lofgren. No.

1653 The Clerk. Ms. Lofgren votes no.

1654 Ms. Jackson Lee?

1655 [No response.]

1656 Ms. Waters?

1657 [No response.]

1658 Mr. Delahunt?

1659 [No response.]

1660 Mr. Wexler?

1661 [No response.]

1662 Ms. Sanchez?

1663 [No response.]

1664 Mr. Cohen?
1665 [No response.]
1666 Mr. Johnson?
1667 [No response.]
1668 Ms. Sutton?
1669 [No response.]
1670 Mr. Gutierrez?
1671 [No response.]
1672 Mr. Sherman?
1673 [No response.]
1674 Ms. Baldwin?
1675 Ms. Baldwin. No.
1676 The Clerk. Ms. Baldwin votes no.
1677 Mr. Weiner?
1678 [No response.]
1679 Mr. Schiff?
1680 [No response.]
1681 Mr. Davis?
1682 [No response.]
1683 Ms. Wasserman Schultz?
1684 [No response.]
1685 Mr. Ellison?
1686 [No response.]
1687 Mr. Smith?
1688 Mr. Smith. Aye.

1689 The Clerk. Mr. Smith votes aye.
1690 Mr. Sensenbrenner?
1691 [No response.]
1692 Mr. Coble?
1693 Mr. Coble. Aye.
1694 The Clerk. Mr. Coble votes aye.
1695 Mr. Gallegly?
1696 [No response.]
1697 Mr. Goodlatte?
1698 Mr. Goodlatte. Aye.
1699 The Clerk. Mr. Goodlatte votes aye.
1700 Mr. Chabot?
1701 Mr. Chabot. Aye.
1702 The Clerk. Mr. Chabot votes aye.
1703 Mr. Lungren?
1704 [No response.]
1705 Mr. Cannon?
1706 [No response.}
1707 Mr. Keller?
1708 [No response.]
1709 Mr. Issa?
1710 Mr. Issa. Aye.
1711 The Clerk. Mr. Issa votes aye.
1712 Mr. Pence?
1713 [No response.]

1714 Mr. Forbes?
1715 [No response.]
1716 Mr. King?
1717 Mr. King. Aye.
1718 The Clerk. Mr. King votes aye.
1719 Mr. Feeney?
1720 [No response.]
1721 Mr. Franks?
1722 [No response.]
1723 Mr. Gohmert?
1724 [No response.]
1725 Mr. Jordan?
1726 [No response.]
1727 Chairman Conyers. Ms. Waters?
1728 Ms. Waters. No.
1729 The Clerk. Ms. Waters votes no.
1730 Chairman Conyers. Ms. Sanchez?
1731 Ms. Sanchez. No.
1732 The Clerk. Ms. Sanchez votes no.
1733 Chairman Conyers. Mr. Nadler?
1734 Mr. Nadler. No.
1735 The Clerk. Mr. Nadler votes no.
1736 Chairman Conyers. Mr. Gutierrez?
1737 Mr. Gutierrez. No.
1738 The Clerk. Mr. Gutierrez votes no.

1739 Chairman Conyers. Mr. Schiff?
1740 Mr. Schiff. No.
1741 The Clerk. Mr. Schiff votes no.
1742 Chairman Conyers. Mr. Weiner?
1743 Mr. Weiner. No.
1744 The Clerk. Mr. Weiner votes no.
1745 Chairman Conyers. The clerk will report.
1746 Oh, Mr. Scott?
1747 Mr. Scott. No.
1748 The Clerk. Mr. Scott votes no.
1749 Chairman Conyers. Mr. Gallegly?
1750 Mr. Gallegly. Aye.
1751 The Clerk. Mr. Gallegly votes aye.
1752 Chairman Conyers. The clerk will report.
1753 The Clerk. Mr. Chairman, seven members voted aye; 10
1754 members voted no.
1755 Chairman Conyers. The noes have it, and the amendment
1756 fails.
1757 Mr. Issa. Mr. Chairman?
1758 Chairman Conyers. Mr. Issa?
1759 Mr. Issa. Mr. Chairman, I have an amendment at the
1760 desk.
1761 Chairman Conyers. The clerk will report the Issa
1762 amendment.
1763 Ms. Lofgren. Mr. Chairman, I reserve a point of order.

1764 Chairman Conyers. A point of order is reserved by the
1765 Immigration Chair.

1766 The Clerk. Amendment to the amendment in the nature of
1767 a substitute to H.R. 6020 offered by Mr. Issa. "Page 4, Line
1768 19, strike 'spouse, child' and insert 'spouse or child'.
1769 Page 4"—

1770 Mr. Issa. That is the wrong amendment.

1771 The Clerk. —"beginning on line 19"—

1772 Mr. Issa. Excuse me, Mr. Chairman. That amendment is
1773 not for the Lofgren one. It is actually the one that begins
1774 "Page 1, Line 10." I apologize. It is a different amendment
1775 at the desk.

1776 Chairman Conyers. The clerk will report the amendment.

1777 The Clerk. Amendment to the amendment offered by Ms.
1778 Lofgren to the amendment in the nature of a substitute to
1779 H.R. 6020 offered by Mr. Darrell Issa of California. "Page
1780 1, Line 10, after 'serving,' insert 'in an active status'."

1781 [The amendment by Mr. Issa follows:]

1782 ***** INSERT *****

1783 Chairman Conyers. Without objection, the amendment will
1784 be considered as read.

1785 The gentleman from California is recognized in support
1786 of his amendment.

1787 Mr. Issa. Mr. Chairman, does the gentlelady withdraw
1788 her reservation?

1789 Ms. Lofgren. Not at this point. I might. I am
1790 checking on something. But proceed to argue your amendment.

1791 Mr. Issa. Mr. Chairman, this is deja vu all over again.
1792 With the help of the gentlelady from California, I took note
1793 of the correct page and, fortunately, also picked up a second
1794 occurrence of the problem that I was speaking to earlier.

1795 And, essentially, Mr. Chairman, what this does is it
1796 recognizes that the underlying bill would allow someone to
1797 enlist in the Reserves during the months that sometimes occur
1798 before you ever go to training, fully qualify for this
1799 special privilege. What we have done instead is we have said
1800 not only do you have to go through your training, but you
1801 have to be called to active duty. So what we have done is
1802 very much eliminated the "or," but, more important, inserted
1803 the "active status" and "not for training."

1804 Mr. Chairman, as you may well know—and many of the other
1805 members who serve on Armed Services and other committees—it
1806 is routine that when you enlist you get that free training
1807 that is advertised—you know, those skills that are advertised

1808 in Army, Navy, Marines, Coast Guard advertisements that all
1809 the recruiters tell you about, how you are going to get a
1810 skill.

1811 Well, quite frankly, a special privilege coming from us
1812 teaching you a skill at government expense should not be the
1813 intent of this bill, but rather your service, your potential
1814 of going into harm's way and, ultimately, your honorable
1815 service.

1816 So this is the first—or maybe not the first, the first
1817 one to actually get across the line by me—that is trying to
1818 make it clear that on a bipartisan basis, we are willing,
1819 able, and very supportive of rewarding the honorable service
1820 by our men and women in uniform who put themselves in harm's
1821 way. We are not prepared to have somebody who simply, maybe
1822 after crimes have been committed, signs up with the recruiter
1823 and then makes these applications while never going on active
1824 duty or certainly not going on active duty with the potential
1825 of harm's way.

1826 So I hope that the gentlelady will look at this as
1827 narrow and designed to limit it to those who actually serve
1828 because, with all due respect to men and women who put the
1829 uniform on, as I did, putting the uniform on because they
1830 issue you one is not, in fact, service. Going through basic
1831 and advanced individual training and then, in fact, being
1832 eligible for deploying is a very different standard than

1833 simply signing up and making your application for this
1834 immigration waiver.

1835 So, Mr. Chairman, I believe that with the gentlelady
1836 from California's help, we have recrafted this more
1837 accurately to line up with her amendment and not the
1838 underlining amendment in the form of a substitute that came
1839 out of committee.

1840 And with that, I would yield to the gentlelady if she
1841 has any comments on her reservation.

1842 Ms. Lofgren. I would withdraw my reservation.

1843 Mr. Issa. Thank you. I yield back the balance of my
1844 time.

1845 Ms. Lofgren. Mr. Chairman?

1846 Chairman Conyers. The gentlelady from California?

1847 Ms. Lofgren. I will be brief because I do not think the
1848 gentleman's amendment deserves our support.

1849 Section 329 of the Immigration and Nationality Act
1850 provides for naturalization of our soldiers or veterans, and
1851 I think we will all agree sort of the gold standard in
1852 immigration is naturalization, being able to become an
1853 American citizen, our citizenship is so precious to us. The
1854 standard for being eligible to naturalize as an American
1855 citizen because of your service in the armed services is
1856 precisely what the language is in this amendment to avert
1857 deportation.

1858 And so it seems to me—it is inexplicable. It does not
1859 make any sense to have a standard that is lower than what the
1860 gentleman proposes to avert deportation proceedings for
1861 something that is massively more important, naturalization.
1862 Perhaps the gentleman was not aware that the standard in the
1863 amendment is the routine standard in the underlying
1864 Immigration and Nationality Act.

1865 Mr. Issa. If the gentlelady would yield?

1866 Ms. Lofgren. I would yield.

1867 Mr. Issa. I appreciate the gentlelady pointing that
1868 out. I have only been here 8 years. I cannot be held
1869 responsible for perhaps people in the past setting standards
1870 that were inconsistent with what I would consider to be
1871 reasonable service in the armed forces.

1872 I do recall that we worked broadly on a bipartisan basis
1873 during my making sure they could get their citizenship even
1874 if they died so their families would enjoy those benefits,
1875 moving up the time dramatically for that eligibility for
1876 citizenship, but I think in every case we were dealing with
1877 people who were on active duty. We are trying to correct the
1878 fact that this deals with people not in that group.

1879 Ms. Lofgren. Reclaiming my time, you know, this was not
1880 really part of the 1996 Act. This has been part of
1881 immigration law for many, many years, and the staff has just
1882 reminded me we did make changes in the underlying act

1883 requested by the minority. This is just the standard that
1884 would be necessary to avoid the filing of the petition until
1885 discharge has-has occurred.

1886 So I think the—I disagree very seriously with the
1887 amendment. I would urge its defeat and hope that we can move
1888 to a vote, Mr. Chairman.

1889 Chairman Conyers. The question occurs on the amendment.

1890 All those in favor of the Issa amendment, indicate by
1891 saying "aye."

1892 [A chorus of ayes.]

1893 Chairman Conyers. All those opposed, say "no."

1894 [A chorus of noes.]

1895 Mr. Issa. Mr. Chairman, I would ask for a recorded vote
1896 on that.

1897 Chairman Conyers. A recorded vote is ordered.

1898 The Clerk. Mr. Conyers?.

1899 Chairman Conyers. No.

1900 The Clerk. Mr. Conyers votes no.

1901 Mr. Berman?

1902 [No response.]

1903 Mr. Boucher?

1904 [No response.]

1905 Mr. Nadler?

1906 [No response.]

1907 Mr. Scott?

1908 Mr. Scott. No.

1909 The Clerk. Mr. Scott votes ne.

1910 Mr. Watt?

1911 [No response.]

1912 Ms. Lofgren?

1913 Ms. Lofgren. No.

1914 The Clerk. Ms. Lofgren votes no.

1915 Ms. Jackson Lee?

1916 [No response.]

1917 Ms. Waters?

1918 [No response.]

1919 Mr. Delahunt?

1920 [No response.]

1921 Mr. Wexler?

1922 [No response.]

1923 Ms. Sanchez?

1924 Ms. Sanchez. No.

1925 The Clerk. Ms. Sanchez votes no.

1926 Mr. Cohen?

1927 Mr. Cohen. No.

1928 The Clerk. Mr. Cohen votes no.

1929 Mr. Johnson?

1930 [No response.]

1931 Ms. Sutton?

1932 Ms. Sutton. No.

1933 The Clerk. Ms. Sutton votes no.
1934 Mr. Gutierrez?
1935 Mr. Gutierrez. No.
1936 The Clerk. Mr. Gutierrez votes no.
1937 Mr. Sherman?
1938 [No response.]
1939 Ms. Baldwin?
1940 Ms. Baldwin. No.
1941 The Clerk. Ms. Baldwin votes no.
1942 Mr. Weiner?
1943 Mr. Weiner. No.
1944 The Clerk. Mr. Weiner votes no.
1945 Mr. Schiff?
1946 Mr. Schiff. No.
1947 The Clerk. Mr. Schiff votes no.
1948 Mr. Davis?
1949 [No response.]
1950 Ms. Wasserman Schultz?
1951 Ms. Wasserman Schultz. No.
1952 The Clerk. Ms. Wasserman Schultz votes no.
1953 Mr. Ellison?
1954 [No response.]
1955 Mr. Smith?
1956 Mr. Smith. Aye.
1957 The Clerk. Mr. Smith votes aye.

1958 Mr. Sensenbrenner?
1959 [No response.]
1960 Mr. Coble?
1961 Mr. Coble. Aye.
1962 The Clerk. Mr. Coble votes aye.
1963 Mr. Gallegly?
1964 Mr. Gallegly. Aye.
1965 The Clerk. Mr. Gallegly votes aye.
1966 Mr. Goodlatte?
1967 Mr. Goodlatte. Aye.
1968 The Clerk. Mr. Goodlatte votes aye.
1969 Mr. Chabot?
1970 Mr. Chabot. Aye.
1971 The Clerk. Mr. Chabot votes aye.
1972 Mr. Lungren?
1973 [No response.]
1974 Mr. Cannon?
1975 Mr. Cannon. No.
1976 The Clerk. Mr. Cannon votes no.
1977 Mr. Keller?
1978 [No response.]
1979 Mr. Issa?
1980 Mr. Issa. Yes.
1981 The Clerk. Mr. Issa votes aye.
1982 Mr. Pence?

1983 [No response.]

1984 Mr. Forbes?

1985 [No response.]

1986 Mr. King?

1987 Mr. King. Aye.

1988 The Clerk. Mr. King votes aye.

1989 Mr. Feeney?

1990 [No response.]

1991 Mr. Franks?

1992 Mr. Franks. Aye.

1993 The Clerk. Mr. Franks votes aye.

1994 Mr. Gohmert?

1995 [No response.]

1996 Mr. Jordan?

1997 [No response.]

1998 Chairman Conyers. Yes? Mr. Watt?

1999 Mr. Watt. No.

2000 The Clerk. Ms. Watt votes no.

2001 Chairman Conyers. Mr. Nadler?

2002 Mr. Nadler. No.

2003 Chairman Conyers. Ms. Waters?

2004 The Clerk. Mr. Nadler votes no.

2005 Ms. Waters. No.

2006 The Clerk. Ms. Waters votes no.

2007 Chairman Conyers. The clerk will report.

2008 The Clerk. Mr. Chairman, 15 members voted no; eight
2009 members voted aye.

2010 Chairman Conyers. The amendment fails.

2011 The Chair would like to announce a 25-minute recess for
2012 lunch in which the staff will be directed to prioritize with
2013 the minority all amendments in such order because we are up
2014 against a 3:00 o'clock circumstance, and I would like to move
2015 as expeditiously as we can, but not ignore the major
2016 considerations of members of the committee.

2017 So we will stand in recess for 25 minutes.

2018 [Recess.]

2019 Chairman Conyers. [Presiding.] The committee will come
2020 to order. The chair notes the apparent absence of a quorum
2021 call and asks the clerk to call the roll.

2022 The Clerk. Mr. Conyers?

2023 Chairman Conyers. Present.

2024 The Clerk. Mr. Berman?

2025 [No response.]

2026 Mr. Boucher?

2027 [No response.]

2028 Mr. Nadler?

2029 [No response.]

2030 Mr. Scott?

2031 [No response.]

2032 Mr. Watt?

2033 [No response.]

2034 Ms. Lofgren?

2035 [No response.]

2036 Ms. Jackson Lee?

2037 [No response.]

2038 Ms. Waters?

2039 [No response.]

2040 Mr. Delahunt?

2041 [No response.]

2042 Mr. Wexler?

2043 [No response.]

2044 Ms. Sanchez?

2045 [No response.]

2046 Mr. Cohen?

2047 [No response.]

2048 Mr. Johnson?

2049 [No response.]

2050 Ms. Sutton?

2051 [No response.]

2052 Mr. Gutierrez?

2053 [No response.]

2054 Mr. Sherman?

2055 [No response.]

2056 Ms. Baldwin?

2057 [No response.]

2058 Mr. Weiner?
2059 [No response.]
2060 Mr. Schiff?
2061 [No response.]
2062 Mr. Davis?
2063 [No response.]
2064 Ms. Wasserman Schultz?
2065 [No response.]
2066 Mr. Ellison?
2067 [No response.]
2068 Mr. Sensenbrenner?
2069 [No response.]
2070 Mr. Coble?
2071 [No response.]
2072 Mr. Gallegly?
2073 [No response.]
2074 Mr. Goodlatte?
2075 [No response.]
2076 Mr. Chabot?
2077 [No response.]
2078 Mr. Lungren?
2079 [No response.]
2080 Mr. Cannon?
2081 [No response.]
2082 Mr. Keller?

2083 [No response.]

2084 Mr. Issa?

2085 [No response.]

2086 Mr. Pence?

2087 [No response.]

2088 Mr. Forbes?

2089 [No response.]

2090 Mr. King?

2091 [No response.]

2092 Mr. Feeney?

2093 [No response.]

2094 Mr. Franks?

2095 [No response.]

2096 Mr. Gohmert?

2097 [No response.]

2098 Mr. Jordan?

2099 [No response.]

2100 Chairman Conyers. Mr. Scott?

2101 The Clerk. Mr. Scott?

2102 [No response.]

2103 Chairman Conyers. Ms. Baldwin?

2104 The Clerk. Ms. Baldwin, present.

2105 Chairman Conyers. Mr. Forbes?

2106 Mr. Cohen?

2107 The Clerk. Mr. Cohen, present.

2108 Chairman Conyers. Mr. Chabot?
2109 Mr. Chabot. Here. Present.
2110 The Clerk. Mr. Chabot, present.
2111 Chairman Conyers. Mr. Pence?
2112 The Clerk. Mr. Pence, present.
2113 Chairman Conyers. Mr. Ellison?
2114 The Clerk. Mr. Ellison, present.
2115 Chairman Conyers. The clerk will report, please.
2116 The Clerk. Mr. Chairman, 14 members answered present.
2117 Chairman Conyers. A working quorum is present.
2118 Are there further amendments? If not, we will move to
2119 the—Mr. Smith, Lamar Smith?
2120 Mr. Smith. Thank you, Mr. Chairman.
2121 I have an amendment at the desk, amendment number nine,
2122 which is a second-degree amendment to the Lofgren amendment.
2123 Chairman Conyers. The clerk will—
2124 Ms. Lofgren. Chairman, I reserve a point of order.
2125 Chairman Conyers. Report the amendment, and the
2126 Immigration chair reserves a point of order. Nobody has it.
2127 Mr. Smith. Mr. Chairman, the amendment is on the way.
2128 The Clerk. Amendment offered by Mr. Smith of Texas to
2129 the amendment offered by Ms. Zoe Lofgren of California, to
2130 the amendment in the nature of a substitute to H.R. 6020,
2131 page three, line 12, after—

2132 [The amendment by Mr. Smith follows:]

2133 ***** INSERT *****

2134 Chairman Conyers. Without objection, the amendment will
2135 be considered as read.

2136 And the ranking member is recognized.

2137 Mr. Smith. Thank you, Mr. Chairman.

2138 Unfortunately "failure to appear" is nothing new to the
2139 discussion surrounding immigration policy. The Department of
2140 Homeland Security's secretary has testified that around 90
2141 percent of illegal immigrants who are arrested and given a
2142 notice to appear in immigration court fail to do so.

2143 That is an incredibly high percentage of individuals who
2144 basically flaunt immigration law.

2145 Our federal law enforcement agencies have a difficult
2146 enough time trying to track those alien absconders down to
2147 remove them from the country. This legislation makes the
2148 U.S. government even more tolerant of failing to appear at
2149 court proceedings.

2150 The bill allows an immigration judge to waive the
2151 grounds of deportability for failure to appear for service of
2152 a criminal sentence and failure to appear before a court to
2153 answer for a felony.

2154 So a convicted criminal can simply not show up to serve
2155 their sentence, can continue their criminal activity on
2156 America's streets, and under this bill can have both the
2157 underlying conviction, depending on what crime the person
2158 commits, and the failure to appear waived in order to receive

2159 immigration benefits.

2160 Instead of being held responsible for their actions that
2161 show a blatant disregard for U.S. law and the criminal
2162 justice system, the immigrant is rewarded.

2163 And the bill also rewards those who fail to appear in
2164 court to answer for a felony for which the criminal can
2165 receive a sentence of at least 2 years imprisonment. That
2166 means criminals who have engaged in organized retail theft,
2167 distributed a controlled substance to make money for their
2168 gangs, and even transported their spouse across state lines,
2169 while engaging in domestic violence, and then fail to appear
2170 for court can have the immigration consequences of their
2171 crimes waived.

2172 If this bill passes, Americans will have more than just
2173 their freedom to defend. They will have to defend themselves
2174 and their families against even more criminals. And that is
2175 not a burden Congress should place on Americans' shoulders.

2176 My amendment strikes the provision in the bill giving an
2177 immigration judge the authority to waive the grounds of
2178 deportability for failure to appear at a sentencing and
2179 failure to appear to answer for a felony. Passage of the
2180 amendment would ensure that more criminals are deportable.

2181 Immigration policy should help Americans, not expose
2182 them to being victimized by criminals. This bill sides with
2183 criminals, instead of with law-abiding Americans and legal

2184 immigrants.

2185 And I urge my colleagues to support the amendment.

2186 And, Mr. Chairman, I yield back.

2187 Chairman Conyers. I thank the gentleman.

2188 Who seeks recognition?

2189 Ms. Lofgren. Mr. Chairman, I withdraw my point of

2190 order. I think the amendment is, in fact, germane.

2191 Chairman Conyers. The gentlelady from California is

2192 recognized.

2193 Ms. Lofgren. I am inclined to oppose this amendment. I

2194 think it will be a rare circumstance when there would be an

2195 necessity to have judicial discretion in these cases, but

2196 there are situations where, and I will give you an example.

2197 In California, petty theft with a prior is a felony,

2198 with a sentence that can exceed that provided for in section

2199 101-A-43-LT. There could well be circumstances where an

2200 individual—say, a parent of a wounded warrior—misbehaved.

2201 They stole a six-pack and then, 6 months later, they stole

2202 another six-pack in California.

2203 That would be a felony. And you might want to be able

2204 to take into account the circumstances.

2205 You know, if I could gain the gentleman's support for

2206 this bill, I would actually accept this amendment, because I

2207 think the circumstances that a judge would be called upon to

2208 utilize these sections are so unlikely and limited that, if

2209 the gentleman will support the bill, I would accept the
2210 amendment.

2211 Mr. Smith. Would the gentlewoman yield? It is not to
2212 register my approval of the bill, but it is to ask a
2213 question. And that is, is it not correct that in order for
2214 the individual to be categorized as you have categorized
2215 them, they would have to be sentenced for a year or more?

2216 Ms. Lofgren. No.

2217 Mr. Smith. I am just—

2218 Ms. Lofgren. Recalling my—

2219 Mr. Smith. But where the sentence could be a year or
2220 more—but I am not aware of any situation where someone who
2221 stole a six-pack could ever be sentenced for a year or more.
2222 And, therefore, I think—

2223 Ms. Lofgren. Well, welcome to California. Actually—

2224 Mr. Smith. Change those laws.

2225 Ms. Lofgren. But the—here is the way the section reads.
2226 "Offense relating to failure to appear before a court
2227 pursuant to a court order to answer to or dispose of a charge
2228 of a felony for which a sentence of 2 years imprisonment or
2229 more may be imposed."

2230 Mr. Smith. Could be imposed.

2231 Ms. Lofgren. It is a possibility. It doesn't mean that
2232 it is. And so you could actually—I mean, there are serious
2233 offenses that are covered by this. There are also offenses

2234 that are not very serious that are covered by this, which is
2235 why we left it in when we pulled out all the other offenses,
2236 the rape, the murder, and the like, because there could be a
2237 need for judicial discretion.

2238 But as I say, if the ranking member of the full
2239 committee were able to support this bill, if I accept this
2240 amendment, I would be happy to do that.

2241 Mr. Smith. Will the gentlewoman yield one more time?

2242 Ms. Lofgren. I would further yield.

2243 Mr. Smith. I don't question that you believe what you
2244 said, but I would like to get, perhaps after we finish today,
2245 any example where any individual who has stolen a six-pack,
2246 even under California laws, could have been sentenced, might
2247 have been sentenced for a year or more.

2248 Ms. Lofgren. I will be happy to provide that. In fact,
2249 there are newspaper accounts of individuals, because it is a
2250 second offense, and, actually, it would—there were some
2251 notorious cases, because it became second-strike offenses
2252 under California's very tough second-strike law.

2253 And it is my time, if I may. But I am inclined—I am
2254 guessing by the gentleman's silence to my question that the
2255 acceptance of this amendment would not lead you to the
2256 ability to support the bill itself.

2257 Mr. Smith. That is correct. Of course, if the
2258 gentlewoman would accept all the remaining amendments—

2259 Ms. Lofgren. I have not seen the—and, actually, if the
2260 gentleman—you know, you can do what you wish, obviously.

2261 But I think, if you were able to share the amendments
2262 you intend to introduce, we would be able to move quicker,
2263 because I wouldn't have to reserve a point of order on an
2264 amendment I haven't seen.

2265 We would have the ability to look and see whether I
2266 agree or not. I think, you know, it is up to you, obviously,
2267 but I think we would move in a more expeditious fashion if
2268 you were to do that.

2269 Mr. Smith. I believe that I have one more amendment to
2270 your amendment. And if that is the case, we will get it to
2271 you.

2272 Chairman Conyers. Would it be appropriate for you to
2273 collect all the 11 amendments, send them down to the chair of
2274 Immigration, and see what we come up with?

2275 Suppose—this is speculative, but suppose half of them
2276 were accepted and we could get to the horse slaughter
2277 legislation that—

2278 Mr. Smith. Mr. Chairman, that is not—since I oppose the
2279 horse slaughter bill.

2280 Chairman Conyers. You oppose the horse slaughter bill,
2281 too? Okay, well, the question is on the amendment—

2282 Mr. Lungren. Mr. Chairman, Mr. Chairman, Mr. Chairman—

2283 Chairman Conyers. Who speaks? Yes, Dan Lungren?

2284 Mr. Lungren. I would just like to speak on the
2285 amendment for a moment.

2286 Chairman Conyers. Of course, recognized.

2287 Mr. Lungren. Just to make it clear with respect to
2288 California law, I don't want California law to be misstated
2289 here. They were talking about the three-strike law. The
2290 three-strike law requires predicate offenses. Your first two
2291 offenses have to be either serious or violent felonies.

2292 Violent felonies are those that anyone could consider to
2293 be violent. The only two in the California criminal code
2294 that are serious but not be violent are arson and home
2295 burglary. Everything else is what is considered to be a
2296 violent offense.

2297 You only have the increased penalty with respect to the
2298 subsequent offense based on the predicate offenses. So to
2299 say that you can get multiple years for stealing a six-pack
2300 or stealing is not quite correct, with respect to the
2301 context. You have to have priors.

2302 And under California law, both the prosecutor and the
2303 judge may strike priors from the indictment under the
2304 interests of justice, whatever that is. That is as wide as
2305 you can possibly be.

2306 To suggest, therefore, that we are putting people in
2307 prison in California for 2 years or more because they have
2308 stolen a six-pack is really not correct—

2309 Ms. Lofgren. Would the gentleman yield?

2310 Mr. Lungren. -out of when it is taken out of context.

2311 And we have changed the law to specifically provide in the
2312 statute in California the authority of the judges, which the
2313 judges assumed before we actually changed the law, so that
2314 has always been the case.

2315 What it requires is that the D.A. actually file the
2316 charges and then go before the court to strike the priors "in
2317 the interest of justice" so that the public can see what
2318 their publicly elected district attorney is doing.

2319 And so to suggest that you are going to go to prison for
2320 those kinds of things just is not quite accurate, if you
2321 don't put it in the proper context.

2322 Ms. Lofgren. Would the gentleman yield?

2323 Mr. Lungren. I would be happy to yield.

2324 Ms. Lofgren. I will be very quick. There are really
2325 two issues here. One is California's three-strike law,
2326 which—the gentleman is correct—you have to have a predicate
2327 offense. However, the predicate offense can be many, many
2328 years ago. And the triggering offense would be a very minor
2329 one.

2330 There are also the wobblers, which I was referring to
2331 earlier. But I think I did confuse the subject by talking
2332 about the three-strike law and not clarifying that I was
2333 referring to wobblers. That is—

2334 Mr. Lungren. Well, wobblers-wobblers are cases that
2335 could be filed as either a misdemeanor or a felony, but you
2336 still have to have the underlying offense. And-

2337 Ms. Lofgren. That can be quite minor. I think we have
2338 probably done enough of telling-

2339 Mr. Lungren. I understand that. But I would like to
2340 make it very, very clear. We are not putting people away for
2341 those kinds of things absent predicate offenses that are
2342 either violent or serious. And there is a specific
2343 definition for that.

2344 And as I said, there is the discretion with the judge
2345 and also with the district attorney to strike priors, with
2346 respect to the "in the interest of justice" section, so-

2347 Ms. Lofgren. If the gentleman would further yield-

2348 Mr. Lungren. I will be happy to yield.

2349 Ms. Lofgren. Just very briefly, the famous case, I
2350 believe, was out of San Diego of an individual who had a
2351 pretty rough youth. And he had burglarized, and now he is
2352 cleaned up. And he was, in fact, sentenced to prison for
2353 stealing a six-pack of beer. That actually led to, I think,
2354 California to make some reforms in its three-strike law that
2355 you have described, I think very well, with the D.A. and the
2356 judicial discretion.

2357 The problem with this amendment is, among other things,
2358 is that it doesn't-this goes back to when before the statute

2359 was amended by the people of California to fix that problem.

2360 And I also am not an expert on the criminal law of every

2361 state. So I don't want to unduly belabor this, but—

2362 Mr. Lungren. Well, I appreciate it. But I would just—

2363 to take back my time, it could be stealing something, but if

2364 it is taking it from another individual, that is a robbery,

2365 not just a theft from a convenience store where no one

2366 happens to be. We also had the famous pizza robbery case.

2367 But in all of those cases, the priors were both—in fact,

2368 in those cases, the priors were, in fact, violent felonies.

2369 So I just want to make it clear, we are not talking

2370 about just little missteps by misunderstood youth. And I

2371 would yield back the balance of my time.

2372 Chairman Conyers. We thank the gentleman from

2373 California.

2374 Mr. King. Mr. Chairman?

2375 Chairman Conyers. Oh, the gentleman from Iowa?

2376 Mr. King. Thank you, Mr. Chairman.

2377 I would just—I listened to this debate. And I want to

2378 express that, from my perspective, from a little kid on up, I

2379 was raised to have profound respect for the law and

2380 constantly trained and taught that don't run afoul of the

2381 law. Don't accumulate a record, because even if you

2382 accumulate a record as misdemeanors as a minor, they will

2383 follow you through your life.

2384 Now, that is a little hard to find in today's
2385 environment, but that was one of the warnings. Certainly
2386 don't cross the line into the felony. And you can suffer a
2387 penalty at every walk in life, every step along the way.

2388 If you apply for a job, someone will find out what your
2389 criminal record is. Your reputation in the community is part
2390 of that. You may lose your right to vote. And in many
2391 states, it is still against the law to vote if you are a
2392 felon.

2393 So it is hard for me to accept the idea that someone
2394 who, maybe 20 years ago, stole a six-pack of beer should be
2395 absolved of that or give a judge an opportunity to absolve
2396 that or grant a waiver for a violation like that, especially
2397 in light of the fact that, well, Al Capone, for example, was
2398 far more than a tax cheat.

2399 He had lots of things that we believe he did, but he was
2400 convicted of tax evasion. And so they brought the charge
2401 against him that they could make stick.

2402 And I would submit that, if it is on your record, and it
2403 is 20 years old, and it is for stealing a six-pack of beer,
2404 at a minimum—it wasn't the only six-pack of beer he ever
2405 stole—and I think we ought to be looking at this thing from
2406 the standpoint of trying to filter the very best people into
2407 the United States.

2408 And I support the amendment—

2409 Ms. Lofgren. Would the gentleman yield? Would the
2410 gentleman yield?

2411 Mr. King. —and yield back the balance. Oh, yes, I
2412 would.

2413 Ms. Lofgren. I would just like to remind the members of
2414 the committee that what we are talking about is not the
2415 excuse of misbehavior, but the granting of discretion to a
2416 judicial officer to make a decision relative to the mother or
2417 father or wife or husband of an American soldier and whether
2418 or not stealing the six-pack of beer 20 years ago should mean
2419 that the injured soldier's wife should be deported.

2420 And, you know, I just think it is worth reminding
2421 ourselves that this is about the exercise of cautious
2422 discretion in meritorious cases.

2423 And I thank the gentleman for yielding.

2424 Mr. King. And reclaiming my time—and I thank the
2425 gentlelady for her opinion and judgment on this. And I know
2426 that, when you look at this from the standpoint of the vast
2427 and expansive family tree that reaches globally and a
2428 heartfelt need to try to bring that family tree to the United
2429 States and all the tree into the United States, I can
2430 understand what that viewpoint means and how one might
2431 characterize this.

2432 I am on the other side of this argument. I think we
2433 need to—and this law—this Congress has—we have a

2434 constitutional responsibility, and we have the constitutional
2435 authority, and we have the moral responsibility and the moral
2436 authority, as well, to set a filter up so that we filter
2437 through that the kind of people that we want to enhance the
2438 society and this culture.

2439 And that is what this amendment is about. And that is
2440 what each of our amendments are about. And I would urge its
2441 adoption, and I would yield back the balance of my time.

2442 Chairman Conyers. I thank the gentleman.

2443 The question is on the Smith amendment. All those in
2444 favor, say "aye."

2445 [A chorus of ayes.]

2446 Chairman Conyers. All those opposed, say "no."

2447 [A chorus of noes.]

2448 Chairman Conyers. The noes have it. And a recorded
2449 vote is requested. The clerk will call the roll.

2450 The Clerk. Mr. Conyers?

2451 Chairman Conyers. No.

2452 The Clerk. Mr. Conyers votes no.

2453 The Clerk. Mr. Berman?

2454 [No response.]

2455 Mr. Boucher?

2456 [No response.]

2457 Mr. Nadler?

2458 [No response.]

2459 Mr. Scott?

2460 Mr. Scott. No.

2461 The Clerk. Mr. Scott votes no.

2462 Mr. Watt?

2463 Mr. Watt. No.

2464 The Clerk. Mr. Watt votes no.

2465 Ms. Lofgren?

2466 Ms. Lofgren. No.

2467 The Clerk. Ms. Lofgren votes no.

2468 Ms. Jackson Lee?

2469 [No response.]

2470 Ms. Waters?

2471 [No response.]

2472 Mr. Delahunt?

2473 [No response.]

2474 Mr. Wexler?

2475 [No response.]

2476 Ms. Sanchez?

2477 Ms. Sanchez. No.

2478 The Clerk. Ms. Sanchez votes no.

2479 Mr. Cohen?

2480 Mr. Cohen. No.

2481 The Clerk. Mr. Cohen votes no.

2482 Mr. Johnson?

2483 Mr. Johnson. No.

2484 The Clerk. Mr. Johnson votes no.
2485 Ms. Sutton?
2486 [No response.]
2487 Mr. Gutierrez?
2488 [No response.]
2489 Mr. Sherman?
2490 [No response.]
2491 Ms. Baldwin?
2492 Ms. Baldwin. No.
2493 The Clerk. Ms. Baldwin votes no.
2494 Mr. Weiner?
2495 Mr. Weiner. No.
2496 The Clerk. Mr. Weiner votes no.
2497 Mr. Schiff?
2498 [No response.]
2499 Mr. Davis?
2500 [No response.]
2501 Ms. Wasserman Schultz?
2502 Ms. Wasserman Schultz. No.
2503 The Clerk. Ms. Wasserman Schultz votes no.
2504 Mr. Ellison?
2505 Mr. Ellison. No.
2506 The Clerk. Mr. Ellison votes no.
2507 Mr. Smith?
2508 Mr. Smith. Aye.

2509 The Clerk. Mr. Smith votes aye.
2510 Mr. Sensenbrenner?
2511 [No response.]
2512 Mr. Coble?
2513 Mr. Coble. Aye.
2514 The Clerk. Mr. Coble votes aye.
2515 Mr. Gallegly?
2516 [No response.]
2517 Mr. Goodlatte?
2518 [No response.]
2519 Mr. Chabot?
2520 [No response.]
2521 Mr. Lungren?
2522 Mr. Lungren. Aye.
2523 The Clerk. Mr. Lungren votes aye.
2524 Mr. Cannon?
2525 [No response.]
2526 Mr. Keller?
2527 Mr. Keller. Aye.
2528 The Clerk. Mr. Keller votes aye.
2529 Mr. Issa?
2530 Mr. Issa. Aye.
2531 The Clerk. Mr. Issa votes aye.
2532 Mr. Pence?
2533 [No response.]

2534 Mr. Forbes?

2535 Mr. Forbes. Aye.

2536 The Clerk. Mr. Forbes votes aye.

2537 Mr. King?

2538 Mr. King. Aye.

2539 The Clerk. Mr. King votes aye.

2540 Mr. Feeney?

2541 Mr. Feeney. Aye.

2542 The Clerk. Mr. Feeney votes aye.

2543 Mr. Franks?

2544 Mr. Franks. Aye.

2545 The Clerk. Mr. Franks votes aye.

2546 Mr. Gohmert?

2547 [No response.]

2548 Mr. Jordan?

2549 Mr. Jordan. Aye.

2550 The Clerk. Mr. Jordan votes aye.

2551 Chairman Conyers. The clerk—Chairman Berman?

2552 Mr. Berman. No.

2553 The Clerk. Mr. Berman votes no.

2554 Chairman Conyers. The clerk will report.

2555 The Clerk. Mr. Chairman, 12 members voted no, 10

2556 members voted aye.

2557 Chairman Conyers. The amendment fails.

2558 Are there any other amendments?

2559 Mr. Lungren. Mr. Chairman?

2560 Chairman Conyers. Yes, Mr. Lungren?

2561 Mr. Lungren. Mr. Chairman, I have an amendment at the
2562 desk.

2563 Chairman Conyers. The clerk will report the Lungren
2564 amendment.

2565 The Clerk. Amendment to the amendment to the amendment
2566 in the nature of a substitute to H.R. 6020, offered by Mr.
2567 Daniel E. Lungren of California, page two, line 14-

2568 [The amendment by Mr. Lungren follows:]

2569 ***** INSERT *****

2570 Mr. Lungren. Mr. Chairman, I ask unanimous consent that
2571 the amendment can be considered as read.

2572 Chairman Conyers. Without objection, so ordered.

2573 And the gentleman is recognized in support of his
2574 amendment.

2575 Mr. Lungren. Thank you very much.

2576 Mr. Chairman, the Lofgren proposal, now that we have in
2577 the nature of a substitute, on unlawful voters I think is a
2578 good attempt to try and deal with this issue, but I noted
2579 that it applies "only if the alien has been convicted of an
2580 offense."

2581 I appreciate the willingness of the gentlelady from
2582 California, the chairperson of the subcommittee, to work with
2583 us in trying to find language which would provide that
2584 unlawful or illegal voters are not eligible for a waiver of
2585 the exclusion or deportation provisions in sections 212 and
2586 237 of the INA, respectively.

2587 My difficulty with her language is that when I looked
2588 into election law cases, it appears that in many cases they
2589 are taken care of not by way of a criminal conviction, but by
2590 civil penalties, and that it seems to me that, where there is
2591 evidence that one has committed a fraud upon the United
2592 States with respect to voting, that they ought not to get the
2593 benefit of this law, as well intentioned as this law is.

2594 As I say, it is commonplace for such laws to provide for

2595 both civil penalties, as well as criminal penalties. And
2596 after we looked at it, it appeared that the award of civil
2597 penalties is common.

2598 Thus, someone who is here in violation of our
2599 immigration laws and is subjected to civil penalties for also
2600 having violated our voting laws would not be covered by the
2601 language offered by my colleague. That is why I have added
2602 the words "award compromise, settlement or injunction" for an
2603 offense described in such subsection.

2604 Frankly, I think that someone who has violated our
2605 voting laws should not be the beneficiary of the
2606 extraordinary relief provided by this legislation. And I
2607 understand from the language that was placed in here by the
2608 gentlelady from California, she agrees with that.

2609 I just feel that, because of the nature of those
2610 offenses and the way they are generally handled in the
2611 courts, that we needed to include the language that I have
2612 here.

2613 Ms. Lofgren. Would the gentleman yield?

2614 Mr. Lungren. I would be very happy to.

2615 Ms. Lofgren. Here is the question. And I am certainly
2616 open to working with you further on the drafting of this.

2617 I will tell you a quick—a true story. My father was a
2618 Little League coach. And his manager, his coach was a guy
2619 born and, you know, raised in California who had been married

2620 for 25 years to his wonderful wife who had been orphaned as a
2621 child.

2622 And she was a great person. She taught me how to dance
2623 when I was a teenager, which was no easy trick, I will tell
2624 you. She—they had three kids. They lived in the town. You
2625 know, he was a great coach.

2626 Well, it turned out, you know, he was a small
2627 contractor. He had a good year. And they were going to go
2628 on a cruise. So she went down to get her passport.

2629 She filled it out and found out for the first time that
2630 she had not been born in the United States, that she was
2631 raised by an older brother. She was told that she had been
2632 born in San Diego. She believed that she had been born in
2633 San Diego. And she was stunned to find out that she wasn't.

2634 She voted. I mean, and she thought she was entitled to
2635 vote. I mean, she stopped after she found out about the
2636 mistake. And she ultimately did get a petition and did
2637 become an American citizen through naturalization.

2638 What I want to avoid is somebody who through mistake and
2639 who innocently ends up in a problem situation cannot be
2640 considered. So perhaps—and I thought the conviction would
2641 help. But if it is a civil action that requires an intent
2642 provision, I think that is the important thing, that the
2643 person has to know that they are doing—they are not permitted
2644 to vote.

2645 Mr. Lungren. Would the gentlelady lady?

2646 Ms. Lofgren. It is your time.

2647 Mr. Lungren. I have been informed that the way the
2648 underlying statute is written, the one to which we make
2649 reference here, there is already an exception for the
2650 circumstance you mention.

2651 That is, if you were brought here as a child and, under
2652 the circumstances you mentioned, didn't realize you were not
2653 born in the United States and voted, that is not an offense
2654 under the section to which this applies. So a previous
2655 Congress has evidently anticipated the concern you have.

2656 Ms. Lofgren. Actually, the exception doesn't completely
2657 cover it. If you take a look at section 212-A-10-D-ii, it is
2658 only if the parents are naturalized. And the situation that
2659 I have—

2660 Chairman Conyers. The gentleman's time has expired.

2661 Ms. Lofgren. I would ask unanimous consent that the
2662 gentleman be granted an additional minute.

2663 Chairman Conyers. Without objection.

2664 Ms. Lofgren. And if the gentleman would continue to
2665 yield—

2666 Mr. Lungren. Be happy to yield.

2667 Ms. Lofgren. In the true case that I have just
2668 referenced—and this happens. I don't know how often. The
2669 fact that she was orphaned, raised by an older brother, but

2670 also was innocent—I mean, she didn't know until she found
2671 out, much to her chagrin, as you might imagine—she would not
2672 fit into this exception.

2673 I wonder if there is a way in the gentleman's amendment
2674 to insert—not here at the dais, but maybe we could have the
2675 staff talk—and insert some kind of an intent requirement, and
2676 then I would be happy with it.

2677 Mr. Lungren. Well, we will be happy to work with you on
2678 that.

2679 Ms. Lofgren. Would you temporarily suspend
2680 consideration of this amendment so the staff can put an
2681 intent provision in, see if we can agree, without prejudice?

2682 Mr. Lungren. How long is temporary?

2683 Ms. Lofgren. Well, as soon as we can get the staff
2684 together, and maybe we can come up with an agreement here.

2685 Mr. Lungren. Well, that would be fine. Okay.

2686 Chairman Conyers. We thank the gentleman from
2687 California.

2688 The amendment is withdrawn by unanimous consent.

2689 Mr. King. Mr. Chairman?

2690 Chairman Conyers. Yes, the gentleman from Iowa?

2691 Mr. King. Mr. Chairman, I may have jumped the gun, but
2692 I do have an amendment at the desk.

2693 Chairman Conyers. The chair will be recognized, Steve
2694 King amendment.

2695 Mr. King. Excuse me. It is amendment number six,
2696 designated as amendment number six. Sorry.

2697 The Clerk. Amendment number six-

2698 Ms. Lofgren. I would like to reserve a point of order,
2699 since I have not seen the amendment.

2700 The Clerk. -offered by Steve King to the amendment
2701 offered by Ms. Zoe Lofgren of California to the amendment in
2702 the nature of a substitute to H.R. 6020, page two, line
2703 seven-

2704 [The amendment by Mr. King follows:]

2705 ***** INSERT *****

2706 Chairman Conyers. Without objection, the amendment will
2707 be considered as read.

2708 The gentleman from Iowa is recognized in support of his
2709 amendment.

2710 Mr. King. Thank you, Mr. Chairman.

2711 Next month, we will celebrate the 10th anniversary of
2712 the enactment of the International Relief Freedom Act of
2713 1998. That historic bill not only set out U.S. religious
2714 freedom policy, but it made it clear to countries around the
2715 world that the United States is a beacon of light for
2716 religious freedom.

2717 Unfortunately, there is language in this bill that, if
2718 taken advantage of by immigration judges whom we have
2719 discussed at some length here so far today—would set our
2720 religious freedom policies back several steps.

2721 The specific language allows waiver on the ground of
2722 inadmissibility for an alien who, as foreign government
2723 official, committed a severe violation of religious freedom.
2724 It allows servicemembers, veterans and their family members
2725 the chance to enter the United States legally—

2726 Ms. Lofgren. Would the gentleman suspend?

2727 Mr. King. I would yield.

2728 Ms. Lofgren. And yield? I thought that we had put this
2729 in our amendment. We agreed with it. And I think it was
2730 only through oversight that it was not included in the

2731 manager's amendment, so I would be happy to accept the
2732 amendment, since it fixes a mistake that was unintended.

2733 Mr. King. Reclaiming my time, I hope we discover this
2734 to be the case in a number of subsequent amendments, as well.

2735 Ms. Lofgren. I hope not.

2736 Mr. King. And I will allow—

2737 Ms. Lofgren. If you give us the amendments, we might
2738 look and see.

2739 Mr. King. Had I been in the negotiations, I would have
2740 made this point at the time.

2741 So in its very brief conclusion in my opening statement,
2742 which pointed out—will respond to the gentlelady's request—
2743 and what this amendment does, for the purposes of informing
2744 the panel here, who hasn't had the benefit of this amendment,
2745 as well, and we need the collective judgment of everyone on
2746 this committee, certainly, to allow servicemembers, veterans
2747 and their family members, the waiver does, the chance to
2748 enter the United States legally despite the egregious
2749 religious freedom violations they may have committed.

2750 This amendment strikes that language and thus reinstates
2751 the current commitment on U.S. policy to promoting religious
2752 freedom around the world. When according to a recent report
2753 entitled, "Religious Freedom in the World," approximately
2754 one-third of the world's population live in countries or
2755 territories where individuals are denied the right to

2756 practice their religion or belief.

2757 And we in Congress believe that we should respect the
2758 principles of religious freedom. And I think we have heard
2759 that reflected from the gentlelady, the chair of the
2760 Immigration Subcommittee, and I certainly appreciate the
2761 support for this amendment. And I would urge its adoption.

2762 Chairman Conyers. Well, in favor of the King amendment,
2763 signify by saying "aye."

2764 [A chorus of ayes.]

2765 Chairman Conyers. All opposed, say "no."

2766 [A chorus of noes.]

2767 Chairman Conyers. The ayes have it. And the amendment
2768 is agreed to.

2769 Is there any other amendment before we—yes, Mr. Smith is
2770 recognized.

2771 Mr. Smith. Mr. Chairman, I have amendment number eight,
2772 second-degree amendment to the Lofgren amendment at the desk.
2773 And—

2774 Chairman Conyers. The clerk will report the amendment,
2775 please.

2776 The Clerk. Amendment offered by Mr. Smith of Texas to
2777 the amendment offered by Ms. Zoe Lofgren of California to the
2778 amendment in the nature of a substitute to H.R. 6020. Page
2779 three, line 11, after "I," insert "they"—

2780 [The amendment by Mr. Smith follows:]

2781 ***** INSERT *****

2782 Chairman Conyers. We ask unanimous consent the
2783 amendment be considered as read. The ranking member is
2784 recognized in support of his amendment.

2785 Mr. Smith. Thank you, Mr. Chairman.

2786 Mr. Chairman, I offer this amendment to remove gambling
2787 offenses that qualify as aggravated felonies under the
2788 Immigration and Nationality Act from the list of criminal
2789 offenses that can be waived for veterans, servicemembers and
2790 their extended family members.

2791 This bill would allow waivers for criminals who have
2792 been convicted for their ownership or involvement in the
2793 operation of an illegal gambling business. We are not
2794 talking about bingo players or people who buy a raffle ticket
2795 from a charity. The offenses that can be waived under this
2796 bill cover operations that, at a minimum, involve five or
2797 more people who are operating an illegal gambling business
2798 continuously for more than 30 days or have a single day's
2799 revenue exceeding \$2,000.

2800 The gambling conducted in these illegal businesses
2801 covers a broad range of activities, from slot machines to
2802 book-making. These illegal operations are often conducted
2803 under cover of darkness in crime-ridden areas.

2804 They also cover Internet gambling operations, which are
2805 often fronts for money-laundering, drug-trafficking, and
2806 criminal organizations that prey on vulnerable young people

2807 and compulsive gamblers.

2808 Internet gambling became such a serious problem that
2809 Congress enacted the Unlawful Internet Gambling Enforcement
2810 Act of 2006 to try to reduce it. Internet gambling allows
2811 addicts to play 24 hours a day. It lets children play
2812 without age verification.

2813 The ease of betting with a credit card makes it all too
2814 easy to become addicted or bankrupt. Mounting debts entice
2815 others to resort to committing other crimes.

2816 The people who can least afford it are those often lured
2817 to gamble by the prospect of a lucky break, only to find
2818 themselves falling into a deeper hole. Illegal gambling is
2819 not entertainment; it destroys lives.

2820 I ask that my colleagues support this amendment to
2821 gambling crimes from the list of offenses that can be waived
2822 under the provisions of the bill and this amendment.

2823 And I will yield back, Mr. Chairman.

2824 Chairman Conyers. The gentlelady from California?

2825 Ms. Lofgren. Mr. Chairman, I just want to reiterate
2826 that what we are doing with this bill is giving discretion to
2827 make sound decisions that are necessary for the family or
2828 soldiers.

2829 This is called an aggregated felony in the Immigration
2830 Act because of the 1996 amendment. This is not ordinarily an
2831 aggregated felony in the U.S. Code, in Title 18.

2832 But here are some scenarios that might lead an
2833 immigration judge to consider whether the widow of an
2834 American soldier should be deported or whether the mother of
2835 an injured American soldier in Bethesda should be deported.

2836 If you were the landlord in this conspiracy to have
2837 illegal bingo parlors for more than 30 days, and you pled
2838 guilty to this offense, it is the imposition of a sentence
2839 that could be imposed, not that was actually imposed, there
2840 are many reasons why people plead guilty to various offenses.

2841 Sometimes it is to—if they know that they are not
2842 actually going to be sanctioned because they have arranged
2843 for that with the prosecutor, or it may be the cheapest thing
2844 to do, or—there can be many reasons why.

2845 There could also be, as the gentleman has described,
2846 serious misconduct that a judge shouldn't consider. But the
2847 point of this is that we—for offenses that could end up being
2848 minor ones, we would want the immigration judge to have an
2849 opportunity to take a look at the underlying facts and make a
2850 judgment that that the mother of our soldier in Bethesda
2851 shouldn't be deported because of that activity, that it was
2852 necessary for her to stay here with her wounded warrior.

2853 So it is really the same argument for most of these
2854 amendments, that we need to have some ability to review the
2855 actual facts, and in sympathetic cases to weigh in on the
2856 side of the American soldier for his or her benefit.

2857 And I won't belabor the point. I think we have made it
2858 over and over again, Mr. Chairman. So I would yield back.

2859 Chairman Conyers. The question occurs—

2860 Mr. Coble. Mr. Chairman?

2861 Chairman Conyers. Yes?

2862 Mr. Coble. Move to strike the last word.

2863 Chairman Conyers. Yes, Mr. Coble is recognized.

2864 Mr. Coble. And I yield to the ranking member from
2865 Texas.

2866 Mr. Smith. I thank the gentleman from North Carolina
2867 for yielding, just because I want to respond very briefly.

2868 The gentlewoman today has done a great job of
2869 representing her point of view. But in doing so, she has
2870 used words to describe the examples that she has given that
2871 might elicit some sympathy.

2872 She has referred to them as acts that might occur or as
2873 self-acknowledged hypotheticals or something that could be a
2874 minor crime. These are all theoretical.

2875 That doesn't mean that the gentlewoman can't cite them
2876 in her arguments, but, again, I think it would be far more
2877 persuasive if we were talking about actual, real-life
2878 examples that might have occurred.

2879 A minute ago, the gentlewoman mentioned—we were talking
2880 about the situation with, I think, the stolen six-pack. And
2881 the gentleman from California, Mr. Lungren, former A.G. of

2882 California, pointed out that, when you looked at current law,
2883 when you put it in context, people were not going to be
2884 deported for stealing a simple six-pack. There was far more
2885 to it.

2886 And so I would just simple say, while I understand the
2887 argument that is being made and the hypothetical and
2888 theoretical examples that are being offered, that is just not
2889 persuasive when you look at the seriousness of the crimes and
2890 the waivers that are granted.

2891 Prior to 1996, 50 percent of all the waivers that were
2892 sought were granted. I think that that comes awfully close
2893 to an abuse of the discretion authority of a lot of
2894 individuals who might be making decisions about very serious
2895 felonies.

2896 And so I would simply say that, on these amendments that
2897 we are offering, we are dealing with real-life examples of
2898 serious crimes that have been committed that, in our
2899 judgment, should not have the possibility of being waived by
2900 judges who in the past have shown an incredible amount of
2901 expansive interpretation of the laws to grant so many
2902 waivers.

2903 And I thank the gentleman from North Carolina for
2904 yielding, and I will yield back.

2905 Mr. Coble. I will reclaim and yield back, Mr. Chairman.
2906 Chairman Conyers. Thank you.

2907 Mr. Coble. I yield back.

2908 Chairman Conyers. Thank you, Mr. Coble.

2909 The question occurs on the amendment. All in favor, say

2910 "aye."

2911 [A chorus of ayes.]

2912 Chairman Conyers. All opposed, say "no."

2913 [A chorus of noes.]

2914 Chairman Conyers. The ayes have it.

2915 Ms. Lofgren. Mr. Chairman, I don't think the ayes did

2916 prevail. I would like to ask for a recorded vote.

2917 Chairman Conyers. Well, that is a fine opinion that

2918 will be included in the record.

2919 Do you want a recorded vote?

2920 Ms. Lofgren. Yes, please.

2921 Chairman Conyers. The clerk will call the roll.

2922 The Clerk. Mr. Conyers?

2923 Chairman Conyers. No.

2924 The Clerk. Mr. Conyers votes no.

2925 The Clerk. Mr. Berman?

2926 [No response.]

2927 Mr. Boucher?

2928 [No response.]

2929 Mr. Nadler?

2930 [No response.]

2931 Mr. Scott?

2932 Mr. Scott. No.

2933 The Clerk. Mr. Scott votes no.

2934 Mr. Watt?

2935 Mr. Watt. No.

2936 The Clerk. Mr. Watt votes no.

2937 Ms. Lofgren?

2938 Ms. Lofgren. No.

2939 The Clerk. Ms. Lofgren votes no.

2940 Ms. Jackson Lee?

2941 Ms. Jackson Lee. No.

2942 The Clerk. Ms. Jackson Lee votes no.

2943 Ms. Waters?

2944 [No response.]

2945 Mr. Delahunt?

2946 [No response.]

2947 Mr. Wexler?

2948 [No response.]

2949 Ms. Sanchez?

2950 Ms. Sanchez. No.

2951 The Clerk. Ms. Sanchez votes no.

2952 Mr. Cohen?

2953 Mr. Cohen. No.

2954 The Clerk. Mr. Cohen votes no.

2955 Mr. Johnson?

2956 Mr. Johnson. No.

2957 The Clerk. Mr. Johnson votes no.
2958 Ms. Sutton?
2959 [No response.]
2960 Mr. Gutierrez?
2961 [No response.]
2962 Mr. Sherman?
2963 [No response.]
2964 Ms. Baldwin?
2965 Ms. Baldwin. No.
2966 The Clerk. Ms. Baldwin votes no.
2967 Mr. Weiner?
2968 Mr. Weiner. No.
2969 The Clerk. Mr. Weiner votes no.
2970 Mr. Schiff?
2971 [No response.]
2972 Mr. Davis?
2973 [No response.]
2974 Ms. Wasserman Schultz?
2975 Ms. Wasserman Schultz. No.
2976 The Clerk. Ms. Wasserman Schultz votes no.
2977 Mr. Ellison?
2978 Mr. Ellison. No.
2979 The Clerk. Mr. Ellison votes no.
2980 Mr. Smith?
2981 Mr. Smith. Aye.

2982 The Clerk. Mr. Smith votes aye.
2983 Mr. Sensenbrenner?
2984 [No response.]
2985 Mr. Coble?
2986 Mr. Coble. Aye.
2987 The Clerk. Mr. Coble votes aye.
2988 Mr. Gallegly?
2989 Mr. Gallegly. Aye.
2990 The Clerk. Mr. Gallegly votes aye.
2991 Mr. Goodlatte?
2992 [No response.]
2993 Mr. Chabot?
2994 Mr. Chabot. Aye.
2995 The Clerk. Mr. Chabot votes aye.
2996 Mr. Lungren?
2997 Mr. Lungren. Aye.
2998 The Clerk. Mr. Lungren votes aye.
2999 Mr. Cannon?
3000 [No response.]
3001 Mr. Keller?
3002 Mr. Keller. Aye.
3003 The Clerk. Mr. Keller votes aye.
3004 Mr. Issa?
3005 [No response.]
3006 Mr. Pence?

3007 [No response.]

3008 Mr. Forbes?

3009 Mr. Forbes. Aye.

3010 The Clerk. Mr. Forbes votes aye.

3011 Mr. King?

3012 Mr. King. Aye.

3013 The Clerk. Mr. King votes aye.

3014 Mr. Feeney?

3015 [No response.]

3016 Mr. Franks?

3017 Mr. Franks. Aye.

3018 The Clerk. Mr. Franks votes aye.

3019 Mr. Gohmert?

3020 Mr. Gohmert. Aye.

3021 The Clerk. Mr. Gohmert votes aye.

3022 Mr. Jordan?

3023 Mr. Jordan. Aye.

3024 The Clerk. Mr. Jordan votes aye.

3025 Chairman Conyers. Chairman Berman?

3026 The Clerk. Mr. Berman votes no.

3027 Ms. Lofgren. Mr. Chairman, how am I recorded?

3028 The Clerk. Ms. Lofgren votes no.

3029 Chairman Conyers. The clerk will report.

3030 The Clerk. Mr. Chairman, 13 members voted no, 11

3031 members voted aye.

3032 Chairman Conyers. The amendment does not succeed.

3033 Is there any final amendment or two before we call for

3034 the final vote on immigration?

3035 Ms. Lofgren. Mr. Chairman?

3036 Mr. King. Mr. Chairman?

3037 Chairman Conyers. Yes, Steve—the gentleman from Iowa?

3038 Mr. King. Mr. Chairman, I have an amendment at the

3039 desk.

3040 Chairman Conyers. The clerk will report the amendment.

3041 The Clerk. Amendment offered by Mr. King—

3042 Mr. King. Number seven.

3043 The Clerk. —number seven, of Iowa—

3044 [The amendment by Mr. King follows:]

3045 ***** INSERT *****

3046 Chairman Conyers. I ask unanimous consent the amendment
3047 be considered as read.

3048 The gentleman is recognized in support of his amendment.

3049 Mr. King. Thank you, Mr. Chairman.

3050 This amendment, King amendment number seven, is one that
3051 addresses the Sex Offender Registry.

3052 Ms. Lofgren. I would like to reserve a point of order,
3053 Mr. Chairman.

3054 Chairman Conyers. Point of order is reserved.

3055 Mr. King. Mr. Chairman, according to the National
3056 Center for Missing and Exploited Children, as of mid-July of
3057 this year, there were 644,865 registered sex offenders in the
3058 United States.

3059 Now, that is a chilling number, but it is ludicrous to
3060 think that none of these sex offenders are alien family
3061 members of current or former members of the U.S. military.

3062 And it is ludicrous to think that none of the sex
3063 offenders in this country who have failed to register are
3064 alien family members of current or former U.S. military
3065 personnel.

3066 That is why I am troubled that H.R. 5882, even with the
3067 manager's amendment, contains a provision that allows the
3068 waiver of deportability for aliens who have failed to
3069 register as sex offenders.

3070 Now, how can this be sound policy that protects

3071 Americans? It seems that my colleagues on the other side of
3072 the aisle are choosing the side of criminal aliens and their
3073 families over the side of America's families. We must
3074 protect the American people.

3075 My amendment strikes the provision allowing an
3076 immigration judge to waive deportability if a convicted sex
3077 offender fails to register as a sex offender. And I would
3078 point out that this is a very, very reasonable, low-key type
3079 of an amendment.

3080 We are not talking about deporting the 644,865
3081 registered sex offenders. We are talking about asking—
3082 requiring that they register and eliminating the waiver that
3083 the judge would have if they don't register as sex offenders.

3084 The amendment strikes a provision allowing the judge to
3085 waive deportability if a convicted sex offender fails to
3086 register as a sex offender. It is that simple.

3087 Ms. Lofgren. Would the gentleman yield?

3088 Mr. King. I would yield.

3089 Ms. Lofgren. I am inclined to accept this amendment,
3090 even though there is a sound argument in opposition. And I
3091 will briefly give it to you.

3092 As Mr. Scott has mentioned in the past, you can have the
3093 registration requirement on a 17-year-old who had relations
3094 with his 16-year-old girlfriend, and you have to register for
3095 life. That can be—it is not what most people have in mind

3096 when you think about sex registration.

3097 On the other hand, those cases are very few and far
3098 between. So rather than belabor this point, I would be
3099 inclined to accept your amendment, if we could move on.

3100 Chairman Conyers. The question occurs on the—

3101 Mr. King. Mr. Chairman?

3102 Chairman Conyers. Yes?

3103 Mr. King. May I reclaim my time from the gentlelady
3104 from California and respond to that?

3105 Chairman Conyers. Well—

3106 Mr. King. In fact, Mr. Chairman, reclaiming my time—

3107 Chairman Conyers. Okay.

3108 Mr. King. Thank you, Mr. Chairman.

3109 I just—I want to conclude this point. And I think
3110 another one has been raised. And the point of—you know, we
3111 need to be evaluating public policy here. And not subject to
3112 whether a person will support an amendment or withdraw an
3113 amendment, but subject to what is good for the people in this
3114 country.

3115 And so, you know, the rationale that has been presented
3116 here doesn't fit very well with me. I think we need to look
3117 at the merits of this on its very face.

3118 And the merits on its face are, in some of the states,
3119 it is a violation of law for a 17-year-old to have sexual
3120 relations with a 16-year-old. And so we do respect the

3121 arguments of federalism.

3122 I heard the majority leader make some very deep and
3123 profound arguments on federalism last night on the Heller
3124 case, which I disagreed with, but if the majority agrees with
3125 those cases, we should also understand that the states have
3126 something to say about this, as well. We should respect
3127 that.

3128 I appreciate the gentlelady's support for my amendment.
3129 I hope it is on the merits of the amendment. And I would
3130 urge its adoption.

3131 And I would yield back the balance of my time.

3132 Chairman Conyers. I thank the gentleman.

3133 All those in favor of the gentleman from Iowa's
3134 amendment, indicate by saying "aye."

3135 [A chorus of ayes.]

3136 Chairman Conyers. All those opposed, "no."

3137 [A chorus of noes.]

3138 Chairman Conyers. The ayes have it, and the amendment
3139 is agreed to.

3140 Is there a final—or is there one or two more amendments
3141 we would like to consider?

3142 Mr. King. Mr. Chairman, I have an amendment at the
3143 desk.

3144 Chairman Conyers. All right, the gentleman from Iowa
3145 is—

3146 Mr. King. Number nine.

3147 Chairman Conyers. -recognized for amendment number

3148 nine.

3149 Ms. Lofgren. I reserve a point of order, Mr. Chairman.

3150 Chairman Conyers. A point of order is reserved.

3151 The Clerk. Amendment offered by Mr. King of Iowa to the

3152 amendment offered by-

3153 [The amendment by Mr. King follows:]

3154 ***** INSERT *****

3155 Chairman Conyers. Without objection, the amendment will
3156 be considered as read.

3157 The gentleman from Iowa is recognized to support his
3158 amendment.

3159 Mr. King. Thank you, Mr. Chairman.

3160 The underlying legislation allows immigration judges to
3161 waive theft convictions for which a criminal alien received a
3162 sentence of at least one year so that criminal will not face
3163 deportation. And not only will the criminal alien not be
3164 deported under the bill, they may be rewarded with legal
3165 immigration status.

3166 It seems that the supporters of this bill have their
3167 priorities mixed up. U.S. citizens and businesses lose
3168 billions of dollars to theft each year, not just a six-pack.
3169 Victims are left to deal with the loss of personal property
3170 and the unfair prospect of having to work even harder to
3171 recoup that loss.

3172 Once a business owner is the victim of a theft, he is
3173 forced to raise his prices, and consumers are forced to pay
3174 higher prices.

3175 I happened to be one of those victims of those kinds of
3176 crimes, Mr. Chairman, and the dollars that I have lost are
3177 documented in the court records. It does fix one's mind on
3178 the damage to individuals that are victims of this kind of
3179 crime when you are a victim of this kind of crime.

3180 With the costs of goods and services increasing each
3181 day, Congress should be considering legislation that would
3182 have the effect of decreasing costs, not increasing them
3183 further, like this legislation will.

3184 My amendment strikes the provision in the underlying
3185 bill allowing the immigration judge, whomever he was
3186 appointed by and whatever his particular political leanings
3187 might be, to waive theft as a ground of deportability. As a
3188 result, it will help prevent thousands of thefts each year,
3189 provides a deterrent, and help stop rising costs for
3190 America's families.

3191 Under the bill, a criminal alien who steals a car from
3192 an American family would be able to have the benefits of a
3193 waiver. A criminal alien who steals millions of dollars from
3194 a small business would be able to have the benefits of a
3195 waiver.

3196 And the same is true for a criminal alien convicted of a
3197 crime like organized retail theft, which is a growing problem
3198 that involves the theft of large quantities of retail
3199 merchandise.

3200 Some of that large quantities of retail merchandise in
3201 the organized retail theft rings goes to fund our terrorist
3202 enemy. Unlike shoplifters or small-time thieves who steal
3203 for their own personal use, organized retail thieves steal
3204 merchandise in order to sell it back into the marketplace.

3205 The typically target merchandise that can be easily re-
3206 sold, such as baby formula—we saw a lot of these cases in
3207 Texas—or electronics. The thieves sell the stolen
3208 merchandise at flea markets, pawn shops, swap meets, and
3209 increasingly on Internet Web sites.

3210 And, Mr. Chairman, according to the FBI, organized
3211 retail theft accounts for between \$30 billion and \$37 billion
3212 in losses annually. The Coalition Against Organized Retail
3213 Crime estimates that states with sales tax annually suffer
3214 over \$1.5 billion in lost revenue due to organized retail
3215 theft.

3216 These are not small-time criminals, as the bill's
3217 supporters would have us believe. These are real criminal
3218 aliens who would steal from me or even the bill's supporters
3219 who advocate on their behalf.

3220 The fact that they are even considering a bill
3221 containing provisions allowing thieves to stay in the United
3222 States legally proves how out of touch some people in this
3223 body are with mainstream America.

3224 Mainstream America wants to be protected from these
3225 thieves. And I would add to this, that, if you have ever sat
3226 in a courtroom as a victim of a crime, and you hear them
3227 announce, "This is a case of the state versus," let's just
3228 say, "John Doe," and you find out that you are there as a
3229 spectator to the crime, you are not part of the equation, and

3230 when the state gets its justice, just like when the king gets
3231 paid for the deer that somebody poached, or old English law
3232 that our criminal law is today a successor of, when the state
3233 gets their justice, the victim is out of the equation.

3234 In fact, you are out of the equation with the exception
3235 of being able to make a statement to the court if you are a
3236 victim of a violent crime. That does not make the crime
3237 victim whole. It ruins and destroys millions of lives in
3238 America, and causes fear, and changes the way we conduct
3239 ourselves.

3240 And to add more people that are victimizers to this
3241 society and create more victims, as what this bill does, this
3242 amendment reduces the number of people that will be
3243 victimized by crime and it reduces the number of victimizers.
3244 And I urgently urge its adoption.

3245 And I yield back the balance of my time. I thank you,
3246 Mr. Chairman.

3247 Chairman Conyers. The chairwoman from the Immigration
3248 Committee from California.

3249 Ms. Lofgren. Mr. Chairman, I withdraw my point of
3250 order. This is a germane amendment.

3251 I will just say, briefly, that I don't believe that
3252 America is for deporting the mothers of our soldiers. And,
3253 indeed, Senator McCain has recently said that he is not
3254 willing to see the mothers of American soldiers deported or

3255 their spouses and widows, either.

3256 So, really, we need to get back to what we are
3257 discussing here, which is the ability to prevent the
3258 deportation of the immediate family members of American
3259 soldiers or, in some cases, the American soldiers themselves.

3260 No one here is for theft or for misbehavior of any sort.
3261 I am not; you are not. The question is, do we have
3262 discretion that is necessary on the part of immigration
3263 judges to consider all of the facts of the situation to avoid
3264 something that I think the American people do not approve of,
3265 which is the deportation of the widow of an American soldier
3266 who was killed in Iraq or the deportation of a mother whose
3267 American soldier's son is in Bethesda hospital?

3268 This is part of the necessary discretion that the bill
3269 would provide to avert that really unconscionable result.
3270 That is why this amendment cannot be agreed to. And I would
3271 yield back the balance of my time.

3272 Chairman Conyers. The question—

3273 Mr. Smith. Mr. Chairman?

3274 Chairman Conyers. Mr. Smith?

3275 Mr. Smith. Thank you, Mr. Chairman.

3276 First, I want to respond very briefly to what the
3277 gentlewoman just said about immediate family. As I
3278 understand her bill, it would also apply not only to
3279 immediate family members, but to extended family members,

3280 like siblings and adults, as well.

3281 And I just want to make sure that everyone is clear that
3282 it does do that before I comment on the amendment. Theft is
3283 not—

3284 Ms. Lofgren. Would the gentleman yield on this?

3285 Mr. Smith. Yes, I will yield.

3286 Ms. Lofgren. It deals with parents, sons and daughters,
3287 and minor siblings.

3288 Mr. Smith. And adult children?

3289 Ms. Lofgren. Yes, it does. Sons and daughters. And if
3290 the gentleman would continue to yield, as last week, as we
3291 mentioned—and I know you have young adult children, as do I—
3292 the bond between parent and child doesn't disappear when that
3293 child becomes 22, which is why this bill provides for the
3294 sons and daughters.

3295 And I thank the gentleman for yielding.

3296 Mr. Smith. I am happy to have yield, but I also want to
3297 reiterate my point that we are not just talking about
3298 immediate family members. We are talking about others.

3299 And I know I am digressing, but—and I don't know whether
3300 this will be of interest to colleagues or not—but for the
3301 first time ever since I had been in Congress, I conducted a
3302 statewide poll in August of swing voters in Texas. Those who
3303 voted straight Republican or straight Democrat were—did not
3304 participate in the poll.

3305 And it was amazing to me to see some of the results of
3306 the questions that I asked about immigration. But just so
3307 that we can be jointly edified here, I will tell the
3308 gentlewoman and my other colleagues today that we asked the
3309 question about whether a legal immigrant should be allowed to
3310 bring adult children into the country—these are swing voters,
3311 not one side or the other—or siblings into the country and so
3312 forth.

3313 And it varied between 60 percent and 70 percent no among
3314 swing voters as to whether an immigrant should be entitled to
3315 bring in parents or brothers and sisters or adult children.

3316 So the American people distinguish between immediate
3317 family members, whom I would define as parents and minor
3318 children, and individuals who might not be immediate family
3319 members. But I just want to say that I—

3320 Mr. Watt. Will the gentleman yield?

3321 Mr. Smith. —I think that that represents the genuine
3322 public view of things. Who was asking—

3323 Mr. Watt. Would the gentleman yield? I am down on your
3324 right here.

3325 Mr. Smith. I am sorry. I would be happy to yield to
3326 the gentleman from North Carolina, Mr. Watt.

3327 Mr. Watt. I just was going to request that the
3328 gentleman make a copy of his poll available to me. I would
3329 like to see the way the questions were worded and what the

3330 responses were.

3331 Mr. Smith. The gentleman is right to do so. I always
3332 worry about polls when I don't see the question asked. And I
3333 will be happy to share both the question asked and the
3334 results with the gentleman from North Carolina.

3335 Mr. Watt. I appreciate it. Thank you.

3336 Mr. Smith. And just to continue, Mr. Chairman, theft is
3337 not a petty crime. And allowing an immigration judge to
3338 waive a theft conviction as a ground for deportation is at
3339 the very least unsound policy.

3340 The underlying legislation allows the waiver of a
3341 conviction of theft for which the term of imprisonment was at
3342 least one year. So illegal immigrants and convicted criminal
3343 legal residents can get—Mr. Chairman, I just wanted to make
3344 sure I have everyone's attention, if I might.

3345 The underlying legislation allows the waiver of a
3346 conviction of theft for which the term of imprisonment was at
3347 least one year, so illegal immigrants and convicted criminal
3348 legal residents can get immigration benefits.

3349 Thefts with such sentences involve thousands, if not
3350 millions, of dollars in property. Mr. King's amendment will
3351 take that waiver authority away and perhaps prevent thousands
3352 of American households and businesses from having their
3353 property stolen.

3354 The majority may argue that something as small as a

3355 shoplifting conviction should not keep someone from receiving
3356 immigration benefits. But if a person is sentenced to more
3357 than 1 year in prison for a shoplifting offense, it is
3358 because the person stole thousands of dollars' worth of
3359 property.

3360 Defeat of this amendment will ensure more convicted
3361 felons on the streets and more thefts of Americans' property.
3362 I urge my colleagues to support this amendment and yield
3363 back.

3364 Chairman Conyers. The question is on the Smith
3365 amendment. All those in favor, indicate by saying "aye."

3366 [A chorus of ayes.]

3367 Chairman Conyers. All those opposed, indicate by saying
3368 "no"—King amendment, excuse me.

3369 [A chorus of noes.]

3370 Chairman Conyers. The ayes have it.

3371 Ms. Lofgren. Mr. Chairman, I would ask for a recorded
3372 vote on that.

3373 Chairman Conyers. A recorded vote is required.

3374 The Clerk. Mr. Conyers?

3375 Chairman Conyers. No.

3376 The Clerk. Mr. Conyers votes no.

3377 Mr. Berman?

3378 [No response.]

3379 Mr. Boucher?

3380 [No response.]

3381 Mr. Nadler?

3382 [No response.]

3383 Mr. Scott?

3384 Mr. Scott. No.

3385 The Clerk. Mr. Scott votes no.

3386 Mr. Watt?

3387 Mr. Watt. No.

3388 The Clerk. Mr. Watt votes no.

3389 Ms. Lofgren?

3390 Ms. Lofgren. No.

3391 The Clerk. Ms. Lofgren votes no.

3392 Ms. Jackson Lee?

3393 Ms. Jackson Lee. No.

3394 The Clerk. Ms. Jackson Lee votes no.

3395 Ms. Waters?

3396 [No response.]

3397 Mr. Delahunt?

3398 [No response.]

3399 Mr. Wexler?

3400 [No response.]

3401 Ms. Sanchez?

3402 Ms. Sanchez. No.

3403 The Clerk. Ms. Sanchez votes no.

3404 Mr. Cohen?

3405 Mr. Cohen. No.

3406 The Clerk. Mr. Cohen votes no.

3407 Mr. Johnson?

3408 Mr. Johnson. No.

3409 The Clerk. Mr. Johnson votes no.

3410 Ms. Sutton?

3411 [No response.]

3412 Mr. Gutierrez?

3413 [No response.]

3414 Mr. Sherman?

3415 [No response.]

3416 Ms. Baldwin?

3417 Ms. Baldwin. No.

3418 The Clerk. Ms. Baldwin votes no.

3419 Mr. Weiner?

3420 Mr. Weiner. No.

3421 The Clerk. Mr. Weiner votes no.

3422 Mr. Schiff?

3423 [No response.]

3424 Mr. Davis?

3425 [No response.]

3426 Ms. Wasserman Schultz?

3427 Ms. Wasserman Schultz. No.

3428 The Clerk. Ms. Wasserman Schultz votes no.

3429 Mr. Ellison?

3430 Mr. Ellison. No.

3431 The Clerk. Mr. Ellison votes no.

3432 Mr. Smith?

3433 Mr. Smith. Aye.

3434 The Clerk. Mr. Smith votes aye.

3435 Mr. Sensenbrenner?

3436 [No response.]

3437 Mr. Coble?

3438 Mr. Coble. Aye.

3439 The Clerk. Mr. Coble votes aye.

3440 Mr. Gallegly?

3441 Mr. Gallegly. Aye.

3442 The Clerk. Mr. Gallegly votes aye.

3443 Mr. Goodlatte?

3444 [No response.]

3445 Mr. Chabot?

3446 Mr. Chabot. Aye.

3447 The Clerk. Mr. Chabot votes aye.

3448 Mr. Lungren?

3449 Mr. Lungren. Aye.

3450 The Clerk. Mr. Lungren votes aye.

3451 Mr. Cannon?

3452 [No response.]

3453 Mr. Keller?

3454 Mr. Keller. Aye.

3455 The Clerk. Mr. Keller votes aye.
3456 Mr. Issa?
3457 [No response.]
3458 Mr. Pence?
3459 [No response.]
3460 Mr. Forbes?
3461 Mr. Forbes. Aye.
3462 The Clerk. Mr. Forbes votes aye.
3463 Mr. King?
3464 Mr. King. Aye.
3465 The Clerk. Mr. King votes aye.
3466 Mr. Feeney?
3467 [No response.]
3468 Mr. Franks?
3469 Mr. Franks. Aye.
3470 The Clerk. Mr. Franks votes aye.
3471 Mr. Gohmert?
3472 Mr. Gohmert. Aye.
3473 The Clerk. Mr. Gohmert votes aye.
3474 Mr. Jordan?
3475 Mr. Jordan. Aye.
3476 The Clerk. Mr. Jordan votes aye.
3477 Chairman Conyers. Mr. Gutierrez?
3478 Mr. Gutierrez. No.
3479 Chairman Conyers. Mr. Berman?

3480 Mr. Berman. No.

3481 The Clerk. Mr. Gutierrez votes no.

3482 Mr. Berman votes no.

3483 Chairman Conyers. Are there any other members that wish
3484 to vote or change their vote?

3485 The clerk will report.

3486 Mr. Delahunt?

3487 Mr. Delahunt. No.

3488 The Clerk. Mr. Delahunt votes no.

3489 Chairman Conyers. Clerk will report.

3490 The Clerk. Mr. Chairman, 15 members voted aye, 11

3491 members—I am sorry, 15 members voted nay, 11 members voted
3492 aye.

3493 Chairman Conyers. Almost. The amendment fails.

3494 The question is on—

3495 Mr. King. Mr. Chairman?

3496 Chairman Conyers. Yes, Steve King?

3497 Mr. King. Mr. Chairman, I really do have the last

3498 amendment to the amendment in the nature of a substitute, and
3499 I would appreciate being recognized to offer it.

3500 Chairman Conyers. I believe the gentleman.

3501 And I ask the clerk to report the amendment.

3502 Mr. King. Thank you, Mr. Chairman.

3503 The Clerk. Amendment offered by Mr. King, number 10, of
3504 Iowa, to the amendment offered by Ms. Zoe Lofgren of

3505 California, to the amendment in the nature of a substitute-

3506 [The amendment by Mr. King follows:]

3507 ***** INSERT *****

3508 Chairman Conyers. I ask unanimous consent the amendment
3509 be considered as read and recognize the gentleman from Iowa.

3510 Mr. King. Thank you, Mr. Chairman.

3511 A crime of violence is one involving the use of an
3512 attempted or threatened use of physical force against a
3513 person or property of another. Crimes of violence include
3514 aggravated assault, armed robbery, kidnapping. They are not
3515 crimes from which victims can recover quickly or painlessly.

3516 Perpetrators of crimes of violence should not be on
3517 anyone's list of people to admit under U.S. immigration
3518 policy. But oddly enough, they are on that list for the
3519 supporters of this legislation.

3520 The underlying bill allows immigration judges to waive
3521 convictions for crimes of violence for which the criminal
3522 received a sentence of at least 1 year in prison so that the
3523 criminal will not be deportable.

3524 The FBI estimates that, in 2007, the last year for which
3525 we have complete records, 1,403,337 violent crimes occurred
3526 in the United States. Of course, none of these crimes should
3527 have taken place in a perfect world. And this Congress
3528 should be taking steps to decrease that number for 2008 and
3529 each year beyond.

3530 Instead, the supporters of this bill are advocating that
3531 criminals should not be held accountable for the crimes they
3532 commit, if a judge decided that they felt sorry for them, and

3533 are giving the criminals immigration benefits to boot.

3534 They are doing this under the guise of helping military
3535 men and women by letting their illegal immigrant family
3536 members stay here. However, policies like these help no one.
3537 They hurt all Americans, and they hurt legal immigrants.

3538 They put innocent people who want nothing more than to
3539 live a comfortable life and raise families at risk.

3540 Had any of the supporters of this bill attended the
3541 immigration forum I chaired last Thursday on criminal alien
3542 activity, they may understand the toll that violent crime has
3543 taken on society.

3544 They would have heard the story of Barbara March, who
3545 was mourning the loss of her son, Los Angeles County
3546 Sheriff's Deputy William March, who was murdered execution-
3547 style by an illegal immigrant who had told his sister that he
3548 was going to kill a cop that day.

3549 They might then think twice about nonchalantly allowing
3550 criminal aliens to stay in the United States.

3551 Had the bill's supporters heard the testimony of Mona
3552 Kilborn, whose mother was killed when the van in which she
3553 was riding was hit by a car driven by an illegal immigrant
3554 who ran two stoplights at a high rate of speed. They may
3555 have reservations about preventing the deportation of
3556 criminal aliens who commit crimes of violence.

3557 Unfortunately, none of the bill's supporters were there

3558 to hear what victims and others had to say. Unfortunately,
3559 my statements today are most likely falling on deaf ears,
3560 because bill supporters think it is more important to provide
3561 ways for criminal aliens to stay in this country than to help
3562 legislate ways to help keep them out.

3563 This bill is unfair to the Americans and legal
3564 immigrants who have been victims of criminal aliens. It is
3565 unfair to the Americans and legal immigrants who will be
3566 victims of criminal aliens in the future. It is unfair to
3567 the legal immigrants who have followed the rule of law and
3568 entered this country legally.

3569 And I would point out, also, Mr. Chairman, that if one
3570 were to be listening to the debate in this committee today
3571 and hear the cases made about how there can be anomalies
3572 within the law and how innocent people can be swept up by
3573 convictions, and then perhaps they only stole a candy bar or
3574 a six-pack, and how presumably there are not victims of these
3575 crimes that pay a very big price, if we hear the focus on
3576 this being about wounded warriors, when in fact it is about
3577 all those who have served in the military, past or present,
3578 and their family members, if we can't conceive of a liberal
3579 judge, a liberal judge granting waivers for any conceivable
3580 crime, please go back and review the transcript of this
3581 hearing today in the Judiciary Committee.

3582 I think if one would envision Judge Lofgren and the

3583 arguments that have been made, one can envision someone who
3584 would have a hard time not granting a waiver. That is what
3585 we are talking about here, if it is hard to imagine.

3586 I think it has been ultimately illustrated by the image
3587 that I have just painted for you. I urge adoption of my
3588 amendment. I think we need to perfect this legislation even
3589 more. And I would yield back the balance of my time.

3590 Chairman Conyers. I appreciate the gentleman from
3591 Iowa's passion, and I recognize the gentlelady from
3592 California.

3593 Ms. Lofgren. Mr. Chairman, I, as with the other
3594 amendments, I would urge opposition to this amendment,
3595 whereas there—as noted earlier, in the underlying manager's
3596 amendment, we have removed a whole variety of serious
3597 offenses, including murder and the like.

3598 But there are forms of misbehavior that a judge might
3599 want to consider if it is the mother of a wounded warrior in
3600 Bethesda hospital. You could be involved in a fistfight 25
3601 years ago, and that conviction for that fistfight could end
3602 up getting you deported, even though you are the widow of a
3603 dead American soldier.

3604 We need to give some discretion to judges to consider
3605 cases such as that. Remember, this bill is only about the
3606 immediate relatives, the close relatives of American soldiers
3607 or American soldiers themselves.

3608 This is about the opportunity to provide for a just
3609 result. And I did ask the staff to find the quotes of
3610 Senator McCain. And this is a direct quote, according to the
3611 press. "I am not going to call up a soldier and tell him I
3612 am deporting his mother. I am not going to do it."

3613 And he says further, "The three G.I.s who were missing
3614 last year in action, one of them was still missing in action,
3615 his wife was about to be deported from this country. I am
3616 not going to deport the wife of a fighting serviceman who is
3617 missing in action."

3618 I believe that most Americans would be exactly in that
3619 same spot as Senator McCain on this point. And I would yield
3620 to the gentlelady from Texas.

3621 Ms. Jackson Lee. Let me thank the gentlelady, as well.
3622 I am glad she mentioned the example of a fistfight.

3623 We know that the law has changed such that activities of
3624 a young person who has lived nowhere but the United States
3625 through the recent changes in the laws in the 1990s can be
3626 deportable for fistfights or juvenile offenses. It is clear
3627 that this is for the relatives of servicepersons.

3628 There is enough oversight in this legislation that would
3629 make it a well-refined and restrained document that deals
3630 only with the precise relief of the soldiers who have either
3631 died on the battlefield, missing in action, or who have
3632 sacrificed themselves for this nation.

3633 I am troubled by the thought that we would layer this
3634 bill with the kind of obstruction like Hurricane Ike to avoid
3635 providing relief for our servicepersons. I am appalled at
3636 the number of deportations on the basis of an upstanding
3637 individual that had an infraction during their lifetime as a
3638 juvenile that now could equal having the relative of a
3639 soldier be deported or be thwarted from using this
3640 legislation.

3641 My final thought—and I thank the gentlelady for her
3642 leadership and for offering this—my final thought is, do we
3643 have any mercy in this country? Fight the terrorists, but
3644 let us respond to the needs of fighting soldiers who were
3645 willing to sacrifice their lives by yielding just a minimal
3646 relief to their family.

3647 Does this committee have any mercy and any thought that
3648 would give these individuals relief?

3649 Maybe sometime, Mr. Chairman, we will have the
3650 opportunity to layer a real immigration bill down with a lot
3651 of heavy amendments, but this is something that is long
3652 overdue. I look forward to reforming the immigration system
3653 and making it right.

3654 I yield back to the gentleman.

3655 Chairman Conyers. I thank the gentlelady.

3656 And the King—I thank the gentlelady from California.

3657 On the King amendment, all those in—

3658 Mr. Smith. Mr. Chairman, may I be recognized real
3659 quickly?

3660 Chairman Conyers. Of course.

3661 Mr. Smith. Mr. Chairman, I support this amendment.
3662 Last week, Republicans on this committee held a forum
3663 focusing on violent crime by illegal immigrants against
3664 American families.

3665 And let me just digress for a second. This—I just want
3666 my colleagues on the committee on both sides of the dias to
3667 know it was probably the most moving forum, or hearing, I
3668 have attended in many, many years.

3669 And I only wish that everyone here could have heard the
3670 stories of these individuals whose spouses and children had
3671 been killed by those who were in the country illegally. And
3672 I do believe there is a transcript of that forum. And anyone
3673 who is interested, I am sure we will be happy to provide
3674 those transcripts to them.

3675 Ms. Lofgren. Would the gentleman yield?

3676 I would like noted for the record that I was not invited
3677 to this hearing and found out about it from the press after
3678 it was held.

3679 And I yield back.

3680 Mr. Smith. I am informed that your staff was informed
3681 with the expectation that they would tell their members, but
3682 maybe that was an incorrect assumption.

3683 Ms. Lofgren. No, we were not invited, nor were we
3684 advised. We did secure the room, because that is our
3685 obligation as the majority to-

3686 Mr. Smith. And that was appreciated. If you would like
3687 to have another forum, we will make sure you are invited to
3688 that one, however.

3689 Mr. Chairman, we heard from the mother of a Los Angeles
3690 high school football star who was gunned down by an MS-13
3691 gang member.

3692 We heard from the wife of a Houston police officer shot
3693 five times in the head by an illegal immigrant he stopped for
3694 a traffic offense.

3695 And we heard from the mother of a teenager who was
3696 brutally raped, beaten, and stabbed by an illegal immigrant
3697 because she didn't want to date him any longer. These are
3698 true crimes of violence.

3699 But a crime of violence doesn't have to involve a
3700 murder. It can involve an armed robbery or a vicious
3701 disfiguring assault.

3702 The underlying legislation allows illegal immigrants who
3703 have been convicted of crimes of violence for which the term
3704 of imprisonment was more than 1 year to have their
3705 convictions waived in order to avoid deportation.

3706 These are serious crimes. Such an amendment makes no
3707 sense, since it keeps criminals in this country. Mr. King's

3708 amendment will prevent that from happening.

3709 According to the FBI, in 2007, there were over 267,000
3710 armed robberies reported in the United States. Americans
3711 should not have to walk down the streets in fear of being
3712 robbed, and they should certainly not be subject to an armed
3713 robbery at the hands of someone who is not in the U.S.
3714 legally in the first place.

3715 Any immigration bill that puts the desires of criminal
3716 aliens ahead of the safety of Americans is simply not good
3717 policy. It shows that we need to be more concerned with
3718 protecting American citizens than with the people who are in
3719 the country illegally who have committed serious crimes.

3720 So I urge my colleagues to support this amendment. And
3721 I will yield back, Mr. Chairman.

3722 Chairman Conyers. Thank you, Mr. Smith.

3723 On the King amendment, all in favor, say "aye."

3724 [A chorus of ayes.]

3725 Chairman Conyers. All opposed, say "no."

3726 [A chorus of noes.]

3727 Chairman Conyers. The noes have it.

3728 Mr. King. Mr. Chairman?

3729 Chairman Conyers. Yes?

3730 Mr. King. I would ask a recorded vote.

3731 Chairman Conyers. A recorded vote is requested.

3732 The Clerk. Mr. Conyers?

3733 Chairman Conyers. No.

3734 The Clerk. Mr. Conyers votes no.

3735 Mr. Berman?

3736 [No response.]

3737 Mr. Boucher?

3738 [No response.]

3739 Mr. Scott?

3740 Mr. Scott. No.

3741 The Clerk. Mr. Scott votes no.

3742 Mr. Watt?

3743 Mr. Watt. No.

3744 The Clerk. Mr. Watt votes no.

3745 Ms. Lofgren?

3746 Ms. Lofgren. No.

3747 The Clerk. Ms. Lofgren votes no.

3748 Ms. Jackson Lee?

3749 Ms. Jackson Lee. No.

3750 The Clerk. Ms. Jackson Lee votes no.

3751 Ms. Waters?

3752 [No response.]

3753 Mr. Delahunt?

3754 [No response.]

3755 Mr. Wexler?

3756 [No response.]

3757 Ms. Sanchez?

3758 [No response.]

3759 Mr. Cohen?

3760 [No response.]

3761 Mr. Johnson?

3762 Mr. Johnson. No.

3763 The Clerk. Mr. Johnson votes no.

3764 Ms. Sutton?

3765 [No response.]

3766 Mr. Gutierrez?

3767 Mr. Gutierrez. No.

3768 The Clerk. Mr. Gutierrez votes no.

3769 Mr. Sherman?

3770 [No response.]

3771 Ms. Baldwin?

3772 Ms. Baldwin. No.

3773 The Clerk. Ms. Baldwin votes no.

3774 Mr. Weiner?

3775 Mr. Weiner. No.

3776 The Clerk. Mr. Weiner votes no.

3777 Mr. Schiff?

3778 [No response.]

3779 Mr. Davis?

3780 [No response.]

3781 Ms. Wasserman Schultz?

3782 Ms. Wasserman Schultz. No.

3783 The Clerk. Ms. Wasserman Schultz votes no.
3784 Mr. Ellison?
3785 [No response.]
3786 Mr. Smith?
3787 Mr. Smith. Aye.
3788 The Clerk. Mr. Smith votes aye.
3789 Mr. Sensenbrenner?
3790 [No response.]
3791 Mr. Coble?
3792 Mr. Coble. Aye.
3793 The Clerk. Mr. Coble votes aye.
3794 Mr. Gallegly?
3795 Mr. Gallegly. Aye.
3796 The Clerk. Mr. Gallegly votes aye.
3797 Mr. Goodlatte?
3798 [No response.]
3799 Mr. Chabot?
3800 Mr. Chabot. Aye.
3801 The Clerk. Mr. Chabot votes aye.
3802 Mr. Lungren?
3803 Mr. Lungren. Aye.
3804 The Clerk. Mr. Lungren votes aye.
3805 Mr. Cannon?
3806 Mr. Cannon. No.
3807 The Clerk. Mr. Cannon votes no.

3808 Mr. Keller?
3809 Mr. Keller. Aye.
3810 The Clerk. Mr. Keller votes aye.
3811 Mr. Issa?
3812 [No response.]
3813 Mr. Pence?
3814 [No response.]
3815 Mr. Forbes?
3816 Mr. Forbes. Aye.
3817 The Clerk. Mr. Forbes votes aye.
3818 Mr. King?
3819 Mr. King. Aye.
3820 The Clerk. Mr. King votes aye.
3821 Mr. Feeney?
3822 [No response.]
3823 Mr. Franks?
3824 Mr. Franks. Aye.
3825 The Clerk. Mr. Franks votes aye.
3826 Mr. Gohmert?
3827 Mr. Gohmert. Aye.
3828 The Clerk. Mr. Gohmert votes aye.
3829 Mr. Jordan?
3830 Mr. Jordan. Aye.
3831 The Clerk. Mr. Jordan votes aye.
3832 Chairman Conyers. Ms. Sanchez?

3833 Ms. Sanchez. No.

3834 The Clerk. Ms. Sanchez votes no.

3835 Chairman Conyers. Ms. Waters?

3836 Ms. Waters. No.

3837 The Clerk. Ms. Waters votes no.

3838 Chairman Conyers. Mr. Cohen?

3839 Mr. Cohen. No.

3840 The Clerk. Mr. Gohmert—

3841 Chairman Conyers. Cohen.

3842 The Clerk. Mr. Cohen votes no.

3843 Chairman Conyers. Mr. Delahunt?

3844 Mr. Delahunt. No.

3845 The Clerk. Mr. Delahunt votes no.

3846 Chairman Conyers. Mr. Gutierrez? You voted already.

3847 Mr. Weiner?

3848 dThank you. Any others who would choose to vote? Clerk

3849 will report.

3850 The Clerk. Mr. Chairman, 15 members voted no, 11

3851 members voted aye.

3852 Chairman Conyers. I thank the committee, and I would

3853 now call for the question on the Lofgren amendment as

3854 amended. All those in favor, indicate by saying "aye."

3855 [A chorus of ayes.]

3856 Chairman Conyers. All those opposed indicate by saying

3857 "no."

3858 [A chorus of noes.]

3859 Chairman Conyers. Ayes have it. And we now move—are
3860 there any other amendments to the immigration bill?

3861 Mr. Lungren. Mr. Chairman?

3862 Chairman Conyers. Yes. Yes, Dan Lungren?

3863 Mr. Lungren. Mr. Chairman, I have an amendment to the
3864 amendment in the nature of a substitute. It is number eight,
3865 even though it is probably number one for me. It was the
3866 Issa eight or King eight, now it is Lungren.

3867 Ms. Lofgren. Reserving a point of order. Is this—

3868 Mr. Lungren. It is the one on honorable discharge.

3869 Ms. Lofgren. Okay.

3870 Chairman Conyers. Clerk will report.

3871 The Clerk. Amendment to the amendment in the nature of
3872 a substitute to H.R. 6020 offered by Mr. Lungren. Strike—

3873 [The amendment by Mr. Lungren follows:]

3874 ***** INSERT *****

3875 Chairman Conyers. I ask unanimous consent the amendment
3876 be considered as read and the gentleman from California be
3877 recognized and supported—

3878 Mr. Lungren. Thank you very much, Mr. Chairman. The
3879 bill in its original form and now with the substitute
3880 accepted offers a wide range of benefits to veterans and
3881 their family members who separated from the service "under
3882 honorable conditions."

3883 Many may not be aware that a separation under honorable
3884 conditions is not the same thing as an honorable discharge.
3885 Unlike an honorable discharge, a separation under "honorable
3886 conditions," is usually only given when a soldier's service
3887 while generally satisfactory was marred by a significant
3888 departure in the performance and/or conduct that is expected
3889 of a member of the United States military.

3890 I would hope that whatever one thinks of this bill, we
3891 shouldn't be rewarding the kind of immigration relief, which
3892 I think is appropriate in some circumstances to these
3893 individuals. What kinds of benefits does the substitute give
3894 to soldiers whose military service may have been marred by
3895 misconduct?

3896 Unfortunately, it gives them the opportunity for this
3897 extraordinary remedy, and I do consider it extraordinary
3898 remedy when you are basically saying that otherwise existing
3899 exclusions to a legal status in the United States are waived,

3900 but this, under the bill, is allowed whether the service was
3901 during peacetime or wartime and no matter how briefly or long
3902 ago they served.

3903 Even soldiers who committed certain criminal convictions
3904 decades after separating from the service under honorable
3905 conditions would be permitted to stay in the country under
3906 this bill. I checked and discovered that individuals in this
3907 broad category are prohibited from receiving benefits under
3908 the GI Bill for instance.

3909 And so there has been a decision made by this Congress
3910 that when someone gets a general discharge "under honorable
3911 conditions," which is less than an honorable discharge, that
3912 we make a distinction such that they are not eligible for the
3913 benefits under the GI Bill. I think similarly we should make
3914 this bill that we are considering here today parallel to that
3915 same decision made by this Congress under, I think, a similar
3916 type appraisal.

3917 That is, the GI Bill is to give benefits to those who
3918 have served. We have made that decision, but we have made
3919 this distinction with respect to those who did not get an
3920 honorable discharge.

3921 Mr. Gohmert. Will the gentleman yield?

3922 Mr. Lungren. From whatever cave you are speaking from—

3923 Mr. Gohmert. I know from 30 years ago plus—about 30
3924 years ago, it was required that service members who might be

3925 separated under honorable conditions or other than honorable
3926 conditions were required to be advised that being separated
3927 in such a manner could cause them to lose many benefits to
3928 which they would otherwise be entitled.

3929 So it was almost like any other type of warning. They
3930 got it, and not only that, many times service members had
3931 actually committed crimes, but this was a way a moving them
3932 out of the Army when the Army was going to need to do
3933 something—move—mobilize, and it was just easier to get them
3934 out than it was to prosecute them.

3935 They accept the under honorable conditions or other than
3936 honorable conditions and move on. So I think the gentleman
3937 makes a good distinction. I yield back.

3938 Mr. Lungren. I also understand that there is a process
3939 by which one can petition subsequently to have their
3940 discharge, "general under honorable conditions," to be
3941 reconsidered to see if they may, in fact, have it changed to
3942 honorable so that if, in fact, someone was not aware of those
3943 circumstances, even though it is my understanding the general
3944 rule is they receive instructions on that, they can petition
3945 to have that changed in light of the information they have.

3946 A fairly simple amendment I would hope that it would be
3947 adopted, and I would yield back the balance of my time.

3948 Chairman Conyers. Thank the gentleman.

3949 And the gentlelady from California?

3950 Ms. Lofgren. Thank you, Mr. Chairman. This is really
3951 the same amendment that was offered earlier in the day, and
3952 the answer remains the same. Under immigration law—and this
3953 has been true for many, many years—benefits for
3954 naturalization based on your service in the American military
3955 flows to those who are separated under honorable conditions.

3956 And we have used that same standard that is in place in
3957 Section 329 of the Immigration and Nationality Act for
3958 naturalization benefits for other purposes. There are a lot
3959 of reasons why you can be separated under honorable
3960 circumstances. One of them is don't ask, don't tell, where
3961 you can be quite a good soldier, but you get separated under
3962 honorable conditions because of your orientation.

3963 I think that an individual in that circumstance who may
3964 be injured should not be penalized, personally. I also think
3965 it would be very odd to have a higher standard for a lesser
3966 benefit in the Immigration and there is no higher benefit in
3967 the Immigration Act than naturalization, and we have used the
3968 standards for naturalization which is separated under
3969 honorable conditions for these lesser benefits as well.

3970 And I know we are almost out of time, so I will stop
3971 there and yield back, Mr. Chairman.

3972 Mr. Cannon. Would the gentlelady yield? Just for an
3973 inquiry of the chair. My understanding, Mr. Chairman, is
3974 that we are going to end this markup fairly soon. What time

3975 is that, and do we have an understanding on how many more
3976 amendments are going to be offered?

3977 Chairman Conyers. Yes. We are down to the last couple.

3978 All those in favor of the Lungren-

3979 Mr. Smith. Mr. Chairman? May I-

3980 Chairman Conyers. Did you want some time on this?

3981 Mr. Smith. Yes, I will be brief, Mr. Chairman.

3982 Chairman Conyers. Yes, sir. The gentleman is

3983 recognized from Texas.

3984 Mr. Smith. Mr. Chairman, I support this amendment. Ms.

3985 Lofgren's substitute like the original bill allows

3986 immigration judges to grant amnesty and criminal waivers to

3987 veterans whose only military service was a long time ago and

3988 was not even worthy of an honorable discharge.

3989 All that is necessary to qualify under this bill is a

3990 separation under honorable conditions. A separation under

3991 honorable conditions usually means that a veteran's

3992 performance while in the military was either deficient in

3993 some way or that an aspect of their conduct did not meet the

3994 standards expected of an American soldier.

3995 Such individuals should not be granted the extraordinary

3996 amnesty and criminal waiver benefits given under this bill.

3997 They should also not be exempted from being removed through

3998 expedited removal proceedings if they committed an aggravated

3999 felony or were exempted from reinstatement of a prior removal

4000 order.

4001 Additionally, under this bill, a family relationship to
4002 a veteran who served during wartime, even when the veteran
4003 did not earn an honorable discharge, earns a family member
4004 amnesty for immigration violations and discretionary waivers
4005 for criminal behavior.

4006 Incredibly, these benefits are available even to a
4007 person who very recently married a veteran who served in the
4008 military decades ago. The spouse only needs to be here on
4009 the day they apply for a green card. This amendment would
4010 appropriately limit these extraordinary benefits to veterans
4011 and the family members of wartime veterans whose service
4012 deserved a grant of an honorable discharge.

4013 I yield back.

4014 Chairman Conyers. I thank the gentleman. All those in
4015 support of the Lungren amendment indicate by saying "aye."

4016 [A chorus of ayes.]

4017 Chairman Conyers. All those opposed say "no."

4018 [A chorus of noes.]

4019 Chairman Conyers. Noes have it. The amendment fails,
4020 and—

4021 Mr. Lungren. Record a vote, please, Mr. Chairman.

4022 Chairman Conyers. Recorded vote is requested.

4023 The Clerk. Mr. Conyers?

4024 Chairman Conyers. No.

4025 The Clerk. Mr. Conyers votes no.
4026 Mr. Berman?
4027 [No response.]
4028 Mr. Boucher?
4029 [No response.]
4030 Mr. Nadler?
4031 [No response.]
4032 Mr. Scott?
4033 Mr. Scott. No.
4034 The Clerk. Mr. Scott votes no.
4035 Mr. Watt?
4036 Mr. Watt. No.
4037 The Clerk. Mr. Watt votes no.
4038 Ms. Lofgren?
4039 Ms. Lofgren. No.
4040 The Clerk. Ms. Lofgren votes no.
4041 Ms. Jackson Lee?
4042 [No response.]
4043 Ms. Waters?
4044 [No response.]
4045 Mr. Delahunt?
4046 [No response.]
4047 Mr. Wexler?
4048 [No response.]
4049 Ms. Sanchez?

4050 [No response.]

4051 Mr. Cohen?

4052 Mr. Cohen. No.

4053 The Clerk. Mr. Cohen votes no.

4054 Mr. Johnson?

4055 Mr. Johnson. Mr. Johnson votes no.

4056 The Clerk. Ms. Sutton?

4057 [No response.]

4058 Mr. Gutierrez?

4059 Mr. Gutierrez. No.

4060 The Clerk. Mr. Gutierrez votes no.

4061 Mr. Sherman?

4062 [No response.]

4063 Ms. Baldwin?

4064 Ms. Baldwin. No.

4065 The Clerk. Ms. Baldwin votes no.

4066 Mr. Weiner?

4067 Mr. Weiner. No.

4068 The Clerk. Mr. Weiner votes no.

4069 Mr. Schiff?

4070 Mr. Schiff. No.

4071 The Clerk. Mr. Schiff votes no.

4072 Mr. Davis?

4073 [No response.]

4074 Ms. Wasserman Schultz?

4075 Ms. Wasserman Schultz. No.

4076 The Clerk. Ms. Wasserman Schultz votes no.

4077 Mr. Ellison?

4078 Mr. Ellison. No

4079 The Clerk. Mr. Ellison votes no.

4080 Mr. Smith?

4081 Mr. Smith. Aye.

4082 The Clerk. Mr. Smith votes aye.

4083 Mr. Sensenbrenner?

4084 [No response.]

4085 Mr. Coble?

4086 [No response.]

4087 Mr. Gallegly?

4088 Mr. Gallegly. Aye.

4089 The Clerk. Mr. Gallegly votes aye.

4090 Mr. Goodlatte?

4091 Mr. Goodlatte. Aye.

4092 The Clerk. Mr. Goodlatte votes aye.

4093 Mr. Chabot?

4094 Mr. Chabot. Aye.

4095 The Clerk. Mr. Chabot votes aye.

4096 Mr. Lungren?

4097 Mr. Lungren. Aye.

4098 The Clerk. Mr. Lungren votes aye.

4099 Mr. Cannon?

4100 Mr. Cannon. Aye.

4101 The Clerk. Mr. Cannon votes aye.

4102 Mr. Keller?

4103 [No response.]

4104 Mr. Issa?

4105 Mr. Issa. Aye.

4106 The Clerk. Mr. Issa votes aye.

4107 Mr. Pence?

4108 [No response.]

4109 Mr. Forbes?

4110 Mr. Forbes. Aye.

4111 The Clerk. Mr. Forbes votes aye.

4112 Mr. King?

4113 Mr. King. Aye.

4114 The Clerk. Mr. King votes aye.

4115 Mr. Feeney?

4116 [No response.]

4117 Mr. Franks?

4118 [No response.]

4119 Mr. Gohmert?

4120 Mr. Gohmert. Aye.

4121 The Clerk. Mr. Gohmert votes aye.

4122 Mr. Jordan?

4123 Mr. Jordan. Aye.

4124 The Clerk. Mr. Jordan votes aye.

4125 Chairman Conyers. Ms. Sanchez?
4126 Ms. Sanchez. No.
4127 The Clerk. Ms. Sanchez votes no.
4128 Chairman Conyers. Mr. Nadler?
4129 Mr. Nadler. No.
4130 The Clerk. Mr. Nadler votes no.
4131 Chairman Conyers. Chairman Berman?
4132 Mr. Berman. No.
4133 The Clerk. Mr. Berman votes no.
4134 Chairman Conyers. Mr. Coble?
4135 Mr. Coble. Aye.
4136 The Clerk. Mr. Coble votes aye.
4137 Chairman Conyers. Clerk will report.
4138 The Clerk. Mr. Chairman, 15 members voted no, 12
4139 members voted aye.
4140 Ms. Lofgren. Mr. Chairman?
4141 Mr. Smith. Mr. Chairman?
4142 Chairman Conyers. The amendment does not succeed, and
4143 the chair recognizes Lamar Smith.
4144 Mr. Smith. Mr. Chairman, I have amendment number three.
4145 Chairman Conyers. Clerk will report the amendment.
4146 The Clerk. Amendment to the amendment in the nature of
4147 a substitute to H.R. 6020 offered by Mr. Smith of Texas.

4148 [The amendment by Mr. Smith follows:]

4149 ***** INSERT *****

4150 Chairman Conyers. Without objection, the amendment will
4151 be considered as read, and the ranking member is recognized.

4152 Mr. Smith. Thank you, Mr. Chairman. Expedited removal
4153 was one of the key immigration enforcement tools that
4154 Congress provided in the Illegal Immigration Reform and
4155 Immigrant Responsibility Act of 1996. The bill before us
4156 restricts the ability of the Department of Homeland Security
4157 to utilize expedited removal.

4158 My amendment simply strikes this language, which makes
4159 it harder to reduce illegal immigration. By the mid 1990s,
4160 tens of thousands of aliens were arriving at U.S. airports
4161 each year without valid documents and making fraudulent
4162 asylum claims. They knew that they would be released into
4163 the community pending asylum hearings because of a lack of
4164 detention space.

4165 Few were ever heard from again. In response, the 1996
4166 Act created expedited removal. Under expedited removal, the
4167 DHS officer at a port of entry can immediately return an
4168 alien lacking proper documents to his or her country of
4169 origin unless the alien asks for asylum and can establish a
4170 credible fear of persecution.

4171 INS soon began making tens of thousands of expedited
4172 removals and our immigration system was no longer being
4173 gamed. The 1996 Act also provided the administration with
4174 the authority to utilize expedited removal in the case of any

4175 alien who had entered the U.S. illegally and had not been
4176 present here for 2 years.

4177 Until recently, the INS and DHS never made use of this
4178 power, a fact that amazed the staff of the 9/11 Commission.
4179 The staff stated that, "Despite the success of expedited
4180 removal at our airports, the INS never expanded expedited
4181 removal to include persons attempting to enter illegally
4182 across the expansive physical borders between ports of entry.
4183 As a result, it was not used against several terrorists who
4184 were able to stay in the United States despite being
4185 apprehended three times for illegal entries along the
4186 Canadian border. This person later became known as the
4187 Brooklyn Bomber for his plan to blow up the Atlantic Avenue
4188 subway in Brooklyn."

4189 In the last few years, the administration has taken a
4190 tentative step towards using expedited removal along the
4191 southern border. Under the much derided practice of catch
4192 and release, most non-Mexican aliens who are caught by the
4193 border patrol were being released into the United States
4194 because of a lack of detention space. In order to end this
4195 practice, DHS now subjects to expedited removal non-Mexican
4196 aliens picked up within 100 miles of the border within 2
4197 weeks of entry.

4198 This bill provides that expedited removal cannot be used
4199 against most aliens who have ever served in the military.

4200 There is simply no justification to restrict the use of
4201 expedited removal. The bill sets the poor precedent that
4202 certain groups of illegal immigrants deserve to be exempt
4203 from expedited removal.

4204 Not only does this bill restrict the use of expedited
4205 removal, it restricts the use of other special removal
4206 proceedings. The immigration law provides for special
4207 expedited removal proceedings for aliens who are serving time
4208 in federal, state, or local prisons for aggravated felonies.

4209 The goal is to complete the removal proceedings before
4210 the aliens release from incarceration. This bill provides
4211 that such expedited procedures cannot be used against most
4212 aliens who have ever served in the military. Service in the
4213 military should not mean an exemption from sanctions for
4214 crimes committed.

4215 Immigration law also provides that when aliens have re-
4216 entered the U.S. illegally after having been ordered removed,
4217 the prior removal order is automatically reinstated and is
4218 not subject to being reopened. The bill provides that this
4219 common sense provision cannot be used against most aliens who
4220 have ever served in the military.

4221 This amendment strikes the provision of the bill that
4222 restricts these various expedited removal proceedings, so I
4223 urge my colleagues to support the amendment.

4224 Mr. Watt. The gentlelady from California.

4225 Ms. Lofgren. Mr. Chairman, I do not support the
4226 amendment, and let me give you some reasons why.

4227 Expedited removal is a process where a person is accused
4228 of entering unlawfully or being present unlawfully and never
4229 sees a judge. They are simply hauled off and thrown out of
4230 the country. Now you can make an argument, and I mean that
4231 that is appropriate in some cases. You catch somebody
4232 climbing the fence, that makes some sense.

4233 But if you have got somebody who is interior or somebody
4234 who has a claim of—and they are a soldier, they ought to at
4235 least have an opportunity to make their case about why they
4236 are legally present to an immigration judge. Recently, it
4237 came to my attention that a veteran of the Vietnam War—an
4238 American citizen—was arrested by ICE, and he was in custody
4239 for 7 months in Seattle—7 months, this American citizen
4240 veteran of the Vietnam era war.

4241 It was a paperwork problem on the Department of Homeland
4242 Security, but ultimately, even though I think it was pretty
4243 distressful that this American citizen was illegally held in
4244 the custody of ICE for a period of 7 months, he was able to
4245 prove that he was, in fact, an American citizen. And, to
4246 boot, a veteran of the Vietnam War.

4247 If this amendment had been passed, an individual in that
4248 circumstance would never have an opportunity actually to
4249 prove up that they are an American or that they have a right

4250 to remain in the United States. This underlying bill
4251 provides for the potential of release for American soldiers
4252 and their families. It doesn't guarantee release. It
4253 provides for the opportunity for sensible policies to be put
4254 into play when it comes to American soldiers and their close
4255 family members.

4256 An expedited removal proceeding completely guts the
4257 opportunity for those judgments to be made and, therefore, I
4258 think this is an amendment that cannot be supported. Surely,
4259 we want American soldiers to at least have an opportunity to
4260 be heard if they are apprehended, and this could lead to very
4261 serious problems for American.

4262 Mr. Cannon. Would the gentlelady yield?

4263 Ms. Lofgren. I would be happy to yield to the
4264 gentleman.

4265 Mr. Cannon. My understanding listening to the debate
4266 here is that what this is about is discretion of a judge as
4267 opposed to a bright line rule.

4268 Ms. Lofgren. That is correct.

4269 Mr. Cannon. And so let me just say that I think that we
4270 need to have judges with discretion to avoid the kinds of—you
4271 talked about a tragedy where you have a citizen that is being
4272 held. I think there are many, many cases where a judge's
4273 discretion is going to work much better in a complicated
4274 society with complicated human beings with complicated

4275 families rather than bright line rules that are going to be
4276 harsh and not do justice. So I support the gentlelady's
4277 opposition to this amendment.

4278 Ms. Lofgren. I thank the gentleman for his comments,
4279 and I would yield back and perhaps we can proceed on a vote
4280 on the amendment.

4281 Mr. Watt. [Presiding.] The gentlelady yields back.
4282 The question occurs on the amendment of the gentleman from
4283 Texas, Mr. Smith.

4284 All in favor say "aye."

4285 [A chorus of ayes.]

4286 Mr. Watt. All opposed say "no."

4287 [A chorus of noes.]

4288 Mr. Watt. The noes have it.

4289 A recorded vote is requested. The clerk will call the
4290 roll.

4291 The Clerk. Mr. Conyers?

4292 [No response.]

4293 Mr. Berman?

4294 [No response.]

4295 Mr. Boucher?

4296 [No response.]

4297 Mr. Nadler?

4298 [No response.]

4299 Mr. Scott?

4300 Mr. Scott. No.

4301 The Clerk. Mr. Scott votes no.

4302 Mr. Watt?

4303 Mr. Watt. No.

4304 The Clerk. Mr. Watt votes no.

4305 Ms. Lofgren?

4306 Ms. Lofgren. No.

4307 The Clerk. Ms. Lofgren votes no.

4308 Ms. Jackson Lee?

4309 [No response.]

4310 Ms. Waters?

4311 [No response.]

4312 Mr. Delahunt?

4313 [No response.]

4314 Mr. Wexler?

4315 [No response.]

4316 Ms. Sanchez?

4317 Ms. Sanchez. No.

4318 The Clerk. Ms. Sanchez votes no.

4319 Mr. Cohen?

4320 [No response.]

4321 Mr. Johnson?

4322 Mr. Johnson. Mr. Johnson votes no.

4323 The Clerk. Ms. Sutton?

4324 [No response.]

4325 Mr. Gutierrez?
4326 Mr. Gutierrez. No.
4327 The Clerk. Mr. Gutierrez votes no.
4328 Mr. Sherman?
4329 [No response.]
4330 Ms. Baldwin?
4331 Ms. Baldwin. No.
4332 The Clerk. Ms. Baldwin votes no.
4333 Mr. Weiner?
4334 Mr. Weiner. No.
4335 The Clerk. Mr. Weiner votes no.
4336 Mr. Schiff?
4337 [No response.]
4338 Mr. Davis?
4339 [No response.]
4340 Ms. Wasserman Schultz?
4341 Ms. Wasserman Schultz. No.
4342 The Clerk. Ms. Wasserman Schultz votes no.
4343 Mr. Ellison?
4344 Mr. Ellison. No
4345 The Clerk. Mr. Ellison votes no.
4346 Mr. Smith?
4347 Mr. Smith. Aye.
4348 The Clerk. Mr. Smith votes aye.
4349 Mr. Sensenbrenner?

4350 [No response.]

4351 Mr. Coble?

4352 Mr. Coble. Aye.

4353 The Clerk. Mr. Coble votes aye.

4354 Mr. Gallegly?

4355 [No response.]

4356 Mr. Goodlatte?

4357 Mr. Goodlatte. Aye.

4358 The Clerk. Mr. Goodlatte votes aye.

4359 Mr. Chabot?

4360 Mr. Chabot. Aye.

4361 The Clerk. Mr. Chabot votes aye.

4362 Mr. Lungren?

4363 Mr. Lungren. No.

4364 The Clerk. Mr. Lungren votes no.

4365 Mr. Cannon?

4366 Mr. Cannon. No.

4367 The Clerk. Mr. Cannon votes No.

4368 Mr. Keller?

4369 Mr. Keller. Aye.

4370 The Clerk. Mr. Keller votes aye.

4371 Mr. Issa?

4372 Mr. Issa. Aye.

4373 The Clerk. Mr. Issa votes aye.

4374 Mr. Pence?

4375 [No response.]

4376 Mr. Forbes?

4377 Mr. Forbes. Aye.

4378 The Clerk. Mr. Forbes votes aye.

4379 Mr. King?

4380 Mr. King. Aye.

4381 The Clerk. Mr. King votes aye.

4382 Mr. Feeney?

4383 [No response.]

4384 Mr. Franks?

4385 [No response.]

4386 Mr. Gohmert?

4387 Mr. Gohmert. Aye.

4388 The Clerk. Mr. Gohmert votes aye.

4389 Mr. Jordan?

4390 Mr. Jordan. Aye.

4391 The Clerk. Mr. Jordan votes aye.

4392 Mr. Watt. Any other members wishing to cast a vote?

4393 Mr. Nadler?

4394 Mr. Nadler. No.

4395 The Clerk. Mr. Nadler votes no.

4396 Mr. Watt. Mr. Berman?

4397 Mr. Berman. No.

4398 The Clerk. Mr. Berman votes no.

4399 Mr. Watt. Mr. Schiff?

4400 Mr. Schiff. No.

4401 The Clerk. Mr. Schiff votes aye.

4402 Mr. Watt. Mr. Conyers?

4403 The Clerk. Mr. Conyers votes no.

4404 Mr. Watt. Mr. Cohen?

4405 Mr. Cohen. No.

4406 The Clerk. Mr. Cohen votes no.

4407 Mr. Watt. Mr. Gallegly?

4408 The Clerk. Mr. Gallegly has not voted.

4409 Mr. Gallegly. Aye.

4410 The Clerk. Mr. Gallegly votes aye.

4411 Mr. Watt. Mr. Issa?

4412 Mr. Issa. I already voted aye.

4413 Mr. Watt. Oh, okay. Any other members wishing to
4414 record or change their vote? If not, the clerk will report.

4415 The Clerk. Mr. Chairman, 17 members voted no, 11
4416 members voted aye.

4417 Mr. Watt. The amendment fails. Are their other
4418 amendments?

4419 Mr. Lungren from California.

4420 Mr. Lungren. Thank you, Mr. Chairman. This will
4421 require unanimous consent because I withdrew an amendment
4422 earlier to see if we could work out language. We worked it
4423 out, but it was an amendment to the amendment in the nature
4424 of a substitute, and I need unanimous consent to have that

4425 considered at this point.

4426 Mr. Watt. Without objection, and the clerk will report
4427 the amendment. Is it revised language?

4428 Does the clerk have it?

4429 Mr. Lungren. No, it is additional revised language,
4430 right there. There, they have it.

4431 Mr. Watt. Clerk will report.

4432 The Clerk. Amendment to the amendment in the nature of
4433 a substitute to H.R. 6020 offered by Mr. Daniel E. Lungren of
4434 California, page—

4435 [The amendment by Mr. Lungren follows:]

4436 ***** INSERT *****

4437 Mr. Watt. Without objection, the amendment will be
4438 considered as read. Mr. Lungren is recognized for 5 minutes.

4439 Mr. Lungren. Thank you very much, Mr. Chairman. This
4440 is a compromise amendment that we have worked out with the
4441 Chairwoman Lofgren's staff. It captures my concern that
4442 those who receive both criminal and civil—who violate
4443 criminal and civil voting laws will not become beneficiaries
4444 of this bill.

4445 At the same time, it tracks language in the existing law
4446 that will prevent my amendment from being a trap for the
4447 innocent, that is the language that says if the court finds
4448 that the alien did not reasonably believe at the time of such
4449 violation that he or she was a citizen—I think that covers
4450 the areas of concern expressed by the chairlady.

4451 It would require the immigration court to also find that
4452 the alien did not—well that is what I just said—did not
4453 reasonably believe at the time of such a violation he or she
4454 was a U.S. citizen. So the instance in which someone
4455 unknowingly was brought here as a young child, they thought
4456 they were a citizen and they voted in those circumstances—
4457 without that information would not be the absolute bar that
4458 this otherwise would be.

4459 This covers those who would commit fraud in the area of
4460 voting, whether they receive the criminal penalty or it was
4461 taken care of in the other ways that most of these violations

4462 are taken care of, and with that, I would—

4463 Ms. Lofgren. Would the gentleman yield?

4464 Mr. Lungren. I would be happy to yield.

4465 Ms. Lofgren. Our staffs have worked this out. I think
4466 the amendment is a good one. I support it, and it is an
4467 example of how we can work together and come up with sensible
4468 measures, and I yield back to the gentleman.

4469 Mr. Lungren. And with that, I would urge support of the
4470 amendment and yield back the balance of my time.

4471 Mr. Watt. The gentleman yields back. The question
4472 occurs on the gentleman's amendment from—Mr. Lungren's
4473 amendment.

4474 All in favor say "aye."

4475 [A chorus of ayes.]

4476 Mr. Watt. All opposed say "no."

4477 [No response.]

4478 Mr. Watt. Ayes have it. So ordered.

4479 Mr. Issa?

4480 Mr. Issa. Chairman, I have an amendment to this.

4481 Ms. Lofgren. I reserve a point of order, Mr. Chairman.

4482 Mr. Watt. Clerk will report the amendment.

4483 The Clerk. Amendment to the amendment in the nature of
4484 a substitute to H.R. 6020 offered by Mr. Issa.

4485 [The amendment by Mr. Issa follows:]

4486 ***** INSERT *****

4487 Mr. Watt. Without objection, the amendment will be
4488 considered as read.

4489 Mr. Issa. Does the gentlelady remove her—

4490 Ms. Lofgren. I haven't seen it, so I can't say.

4491 Mr. Issa. This was distributed hours ago.

4492 Ms. Lofgren. Well then I have lost it in the flurry of
4493 amendments.

4494 Mr. Issa. Great. Then let's—

4495 Ms. Lofgren. I will withhold—

4496 Mr. Watt. Can we just withhold until we—

4497 Yes.

4498 Ms. Lofgren. Once you make your case for the amendment,
4499 I will look at it.

4500 Mr. Issa. Well, if no one has read it, then suspending
4501 the reading is inappropriate—

4502 Ms. Lofgren. It is—

4503 Mr. Watt. She has withdrawn her—

4504 Mr. Issa. Thank you. Mr. Chairman—

4505 Mr. Watt. —point of order.

4506 Mr. Issa. I tried to be very short. Part of this is a
4507 technical amendment, "spouse, child" versus "spouse or
4508 child." I claim those special English talents on that.

4509 The balance, though, essentially narrows the benefit for
4510 men and women serving in our military to their spouse and
4511 children, which is defined properly in the bill rather than

4512 its extended family.

4513 I think that when we really look at this, the family
4514 reunification process and the family maintenance process
4515 while overseas has to have its limits. I am certain we would
4516 not say that anyone that—you know your employer, your
4517 employees, your friends, your—the people you play bridge
4518 with, all should be able to say while you are serving in the
4519 military whether they are illegal or not, we would draw
4520 limits.

4521 This amendment chooses to draw the limit at one that has
4522 been historically one of the common limits and one that would
4523 be consistent with a legal immigrant. It is rare, if at all,
4524 that a legal immigrant is allowed to bring extended family.
4525 A legal immigrant coming for, initially—at the most—would
4526 normally bring spouse and children.

4527 And I might note that even our refugees such as from
4528 Czechoslovakia when the Russian tanks came over the border,
4529 we did not bring the extended family even while the Russians
4530 were cracking down on them without independent decision as to
4531 that extended family.

4532 So I hope the gentlelady would accept this as more
4533 appropriate in light of the definition of those who should be
4534 specially protected and would yield back.

4535 Mr. Watt. Gentleman yields back. The gentlelady from
4536 California.

4537 Ms. Lofgren. Thank you, Mr. Chairman. I oppose this
4538 amendment, and one would assume listening to Mr. Issa that,
4539 you know we are providing for the bridge club. The bill does
4540 not provide for the bridge club, but it provides for the
4541 close family members of an American soldier.

4542 The spouse, the son or daughter, the parent seems like a
4543 close family member to me. Now American citizens can
4544 petition for siblings. In the bill, we have provided for
4545 siblings who are minors and here is the reason why: Let's
4546 say you have—an example—you have got your 19-year-old
4547 American citizen, born in California, he has gone off to
4548 Iraq, and now, he is back. He has been hurt. He is in
4549 Bethesda hospital, and he has his mother—and I mean I have
4550 run into these, and I go up to the Palo Alto V.A.—it is the
4551 moms who stick with their injured sons when they have these
4552 traumatic injuries.

4553 To deport the mother in that case, I think most
4554 Americans would say, is not the right thing to do. You may
4555 disagree, but it is just a different value judgment here that
4556 we are making. I think, as John McCain does, that the
4557 mothers and the fathers should not be deported.

4558 For the minor siblings, if you can deport the minor
4559 sibling but not the parent, then you have ended up with a
4560 minor child who is being sent off to no one to another
4561 country. So that is why even though an American citizen can

4562 petition for siblings of any age, we have limited it to minor
4563 siblings here.

4564 I recognize that we all have the value judgments that we
4565 have. And people have spoken throughout the day on what they
4566 think is right and what they think is wrong. I think it
4567 would be wrong to deport the mother or father of an American
4568 soldier hurt in—just to use one example.

4569 Each member will have to sort through what they think is
4570 right or wrong when they decide what to do with this
4571 amendment, but I feel very clear myself about what my duty
4572 calls me to do.

4573 Mr. Issa. Would the gentlelady yield?

4574 Ms. Lofgren. I would yield.

4575 Mr. Issa. I might note that we regularly grant visas
4576 even for people not in the United States to come and care for
4577 family members whether they are wounded or just infirmed, and
4578 that perhaps the gentlelady wants this one example, but this
4579 example seems to be one that actually takes care of itself
4580 through the orderly process.

4581 We don't deport a wounded warrior's mother, and if we
4582 somebody tried to, I am sure a private bill would quickly
4583 sale through the Congress. So I might suggest that, although
4584 the gentlelady's example pulls at our hearts, it is actually
4585 an example that is much easier to take care of than the
4586 example that a soldier discharged in California simply has

4587 his mom come into the country and says, you and my siblings
4588 get to stay here. Here is the procedure.

4589 Ms. Lofgren. Reclaiming my time. I would note that we
4590 haven't actually passed a private bill in many, many years.
4591 We actually had the first, I believe, four pass through this
4592 House earlier this week, but there hasn't been one that has
4593 made it through the entire process to the president in many
4594 years.

4595 I will just say that whether the American soldier is in
4596 Bethesda or whether he is in Arlington Cemetery, I don't
4597 think that we ought to be deporting his mom and dad, and that
4598 is just what I believe. You obviously believe differently.

4599 Mr. Issa. How about if he is just working at Sun
4600 Microsystems and would like his mom to immigrate? This bill
4601 would allow that.

4602 Ms. Lofgren. Let me reclaim my time and say that you
4603 should vote for this amendment if you think it is the right
4604 thing to do. I think it is very wrong.

4605 Mr. Cannon. Would the gentlelady yield?

4606 Ms. Lofgren. I would be happy to yield.

4607 Mr. Cannon. I thank the gentlelady. I was just sitting
4608 here thinking we did do four private bills recently, but I
4609 think it is been 8 years since we have done the previous
4610 private bill in this Congress.

4611 And if the gentlelady would not mind, I would like to

4612 inquire of the chairman—I did of Mr. Conyers, when he was
4613 here, but Mr. Conyers said we had four or two amendments, we
4614 have now done four. Do we have an understanding of how many
4615 more amendments we have, and when we can expect to end this—
4616 the chairman is saying one more amendment?

4617 Mr. Smith. Well, I think—

4618 Mr. Cannon. One or two more. Maybe press the ranking
4619 member has a better handle on that.

4620 Mr. Smith. I was going to suggest two. I think I have
4621 one, and Mr. King has one. I am not aware of others, but
4622 that is not to say that there might not be.

4623 Mr. Cannon. Are we going to continue the markup for
4624 other bills after this, Mr. Chairman?

4625 Mr. Watt. The gentlelady's time has expired. It was
4626 yielded to you. Does the gentleman have a—

4627 Mr. Cannon. Move to strike the last word.

4628 Mr. Watt. The gentleman is recognized.

4629 Mr. Cannon. I thank the chairman. Are we going to
4630 continue this markup with other bills after we finish this
4631 bill?

4632 Mr. Watt. I am advised, Mr. Cannon, I am sitting in for
4633 the chair that there are two additional bills to be
4634 considered, yes.

4635 Mr. Issa. Point of parliamentary inquiry, Mr. Chairman.

4636 Mr. Watt. The gentleman is recognized for—

4637 Mr. Issa. Does the chair intend to cut off debate
4638 without allowing all amendments and input to be heard?

4639 Mr. Watt. To the extent that that is an appropriate
4640 parliamentary inquiry, the chair doesn't intend to do
4641 anything but preside, but if someone else makes a motion, the
4642 chair has to entertain it. So I can't answer that question.

4643 The gentleman from Texas is recognized.

4644 Mr. Smith. Thank you, Mr. Chairman. I go back and
4645 support the ISSA amendment. I understand that in time of
4646 war, the American people feel an enormous debt of gratitude
4647 to the U.S. military service members and their families;
4648 however, that gratitude is no reason to offer immigration
4649 benefits to nearly every person related to someone who has
4650 served in the armed forces. The underlying bill does just
4651 that.

4652 This amendment narrows the scope of those who can have
4653 grounds of inadmissibility and deportability waived under the
4654 bill. It allows such a waiver for spouses, minor children,
4655 and parents but disallows the waiver for extended families
4656 such as siblings and adult children.

4657 I don't support the underlying bill, because I don't
4658 think anyone deserves amnesty simply because they are related
4659 to family members who have served in the military, and we
4660 should be even more wary of granting amnesty to people simply
4661 because their extended family members are current or former

4662 military service men and women. I urge my colleagues to
4663 support this amendment.

4664 Mr. Watt. The question occurs on the Issa amendment.

4665 All those in favor say "aye."

4666 [A chorus of ayes.]

4667 Mr. Watt. All opposed say "no."

4668 [A chorus of noes.]

4669 Mr. Watt. The noes seem to have it.

4670 Mr. Smith. Mr. Chairman, on that I would ask for a
4671 recorded vote.

4672 Mr. Watt. The gentleman asked for a recorded vote, and
4673 the clerk will call the roll.

4674 The Clerk. Mr. Conyers?

4675 [No response.]

4676 Mr. Berman?

4677 [No response.]

4678 Mr. Boucher?

4679 [No response.]

4680 Mr. Nadler?

4681 [No response.]

4682 Mr. Scott?

4683 Mr. Scott. No.

4684 The Clerk. Mr. Scott votes no.

4685 Mr. Watt?

4686 Mr. Watt. No.

4687 The Clerk. Mr. Watt votes no.
4688 Ms. Lofgren?
4689 Ms. Lofgren. No.
4690 The Clerk. Ms. Lofgren votes no.
4691 Ms. Jackson Lee?
4692 [No response.]
4693 Ms. Waters?
4694 [No response.]
4695 The Clerk. Mr. Delahunt?
4696 [No response.]
4697 The Clerk. Mr. Wexler?
4698 [No response.]
4699 The Clerk. Ms. Sanchez?
4700 [No response.]
4701 Mr. Cohen?
4702 [No response.]
4703 Mr. Johnson?
4704 Mr. Johnson. No.
4705 The Clerk. Mr. Johnson votes no.
4706 Ms. Sutton?
4707 [No response.]
4708 Mr. Gutierrez?
4709 [No response.]
4710 Mr. Sherman?
4711 [No response.]

4712 Ms. Baldwin?
4713 Ms. Baldwin. No.
4714 The Clerk. Ms. Baldwin votes no.
4715 Mr. Weiner?
4716 Mr. Weiner. No.
4717 The Clerk. Mr. Weiner votes no.
4718 Mr. Schiff?
4719 Mr. Schiff. No.
4720 The Clerk. Mr. Schiff votes no.
4721 Mr. Davis?
4722 [No response.]
4723 Ms. Wasserman Schultz?
4724 Ms. Wasserman Schultz. No.
4725 The Clerk. Ms. Wasserman Schultz votes no.
4726 Mr. Ellison?
4727 Mr. Ellison. No.
4728 The Clerk. Mr. Ellison votes no.
4729 Mr. Smith?
4730 Mr. Smith. Aye.
4731 The Clerk. Mr. Smith votes aye.
4732 Mr. Sensenbrenner?
4733 [No response.]
4734 Mr. Coble?
4735 [No response.]
4736 Mr. Gallegly?

4737 [No response.]

4738 Mr. Goodlatte?

4739 Mr. Goodlatte. Aye.

4740 The Clerk. Mr. Goodlatte votes aye.

4741 Mr. Chabot?

4742 Mr. Chabot. Aye.

4743 The Clerk. Mr. Chabot votes aye.

4744 Mr. Lungren?

4745 Mr. Lungren. Aye.

4746 The Clerk. Mr. Lungren votes aye.

4747 Mr. Cannon?

4748 [No response.]

4749 Mr. Keller?

4750 [No response.]

4751 Mr. Issa?

4752 Mr. Issa. Aye.

4753 The Clerk. Mr. Issa votes aye.

4754 Mr. Pence?

4755 [No response.]

4756 Mr. Forbes?

4757 Mr. Forbes. Aye.

4758 The Clerk. Mr. Forbes votes aye.

4759 Mr. King?

4760 Mr. King. Aye.

4761 The Clerk. Mr. King votes aye.

4762 Mr. Feeney?
4763 [No response.]
4764 Mr. Franks?
4765 [No response.]
4766 Mr. Gohmert?
4767 [No response.]
4768 Mr. Jordan?
4769 [No response.]
4770 Mr. Watt. Other members wish to be recorded?
4771 Mr. Gutierrez?
4772 Mr. Gutierrez. No.
4773 The Clerk. Mr. Gutierrez votes no.
4774 Mr. Watt. Ms. Sanchez?
4775 Ms. Sanchez. No.
4776 The Clerk. Ms. Sanchez votes no.
4777 Mr. Watt. Mr. Gallegly?
4778 Mr. Gallegly. Aye.
4779 The Clerk. Mr. Gallegly votes aye.
4780 Mr. Watt. Mr. Coble?
4781 Mr. Coble. Aye.
4782 The Clerk. Mr. Coble votes aye.
4783 Mr. Watt. Mr. Keller?
4784 Mr. Keller. Aye.
4785 The Clerk. Mr. Keller votes aye.
4786 Mr. Watt. Mr. Cannon?

4787 Mr. Cannon. No.

4788 The Clerk. Mr. Cannon votes no.

4789 Mr. Watt. Mr. Wexler?

4790 Mr. Wexler. No.

4791 The Clerk. Mr. Wexler votes no.

4792 Mr. Watt. Mr. Berman?

4793 Mr. Berman. No.

4794 The Clerk. Mr. Berman votes no.

4795 Mr. Watt. Other members wishing to be recorded? Mr.

4796 Conyers?

4797 Chairman Conyers. No.

4798 The Clerk. Mr. Conyers votes no.

4799 Mr. Watt. Mr. Cohen?

4800 Mr. Cohen. No.

4801 The Clerk. Mr. Cohen votes no.

4802 Mr. Watt. Other members wishing to be recorded or

4803 change their vote, if not, the clerk will report.

4804 The Clerk. Mr. Chairman, 16 members voted no, 10

4805 members voted aye.

4806 Mr. Watt. And the amendment is defeated. The other

4807 amendments, Mr. King?

4808 Mr. King. Thank you, Mr. Chairman. I have an amendment

4809 number for at the desk.

4810 Mr. Watt. The clerk will report.

4811 The Clerk. Amendment to the amendment in the nature of

4812 a substitute to H.R. 6020 offered by Mr. King.

4813 Ms. Lofgren. I would like to reserve a point of order.

4814 Mr. Watt. Gentlelady reserves a point of order. The

4815 clerk will report.

4816 The Clerk. Page four, line 22, strike 7(a) and insert

4817 and 7(a).

4818 [The amendment by Mr. King follows:]

4819 ***** INSERT *****

4820 Mr. Watt. Without objection, the amendment will be
4821 considered as read. Mr. King is recognized for 5 minutes.

4822 Ms. Lofgren. I withdraw my point of order, Mr.
4823 Chairman.

4824 Mr. Watt. The point of order is withdrawn. Mr. King is
4825 recognized for 5 minutes.

4826 Mr. King. Thank you, Mr. Chairman. My amendment
4827 removes one of the amnesty provisions that is contained in
4828 the bill, and there is a clear definition of amnesty, and as
4829 we have listened to the debates across the country over the
4830 last 2 years or so—the presidential candidates in particular,
4831 but also the amnesty debate—probably 3 years old by now—the
4832 central debate in America has been about amnesty.

4833 Will you allow for amnesty or are you opposed to
4834 amnesty, and I have heard a significant number of members of
4835 Congress, including senators, take the oath, and they say, I
4836 will never vote for an amnesty bill. So as we hear that term
4837 amnesty that we have seen the White House occasionally seek
4838 to re-define the term amnesty.

4839 And because of that, I put significant effort into
4840 defining the term amnesty so we have clarity, and for the
4841 sake of clarity, I will reiterate the definition that we have
4842 been using in this committee at least when I have been in the
4843 discussions, and as part of the record for some time back.

4844 To grant amnesty is to pardon immigration lawbreakers

4845 and reward them with the objective of their crimes. Now that
4846 is the definition of amnesty that I think that makes it clear
4847 even though there have been others that have tried to change
4848 this and re-define it.

4849 What this amendment does is it eliminates the waiver for
4850 the 3-and 10-year bar. Now if you happen to be in the United
4851 States illegally more than 180 days but less than a year, you
4852 are barred for 3 years from coming back into the United
4853 States. If you happen to be in here for a year or more, 365
4854 days to as long as you might live in this country, you are
4855 barred for 10 years from coming back in.

4856 The underlying bill allows for a waiver for the 3-and
4857 10-year bar. These are standards that have echoed around
4858 through the donor nations that are sending us the legal and
4859 illegal immigrants, and it requires those people to get right
4860 with the law, go back home for 3 years or 10 years, get right
4861 with the law and turn around and come right back into the
4862 United States.

4863 It provides a significant deterrent for people violating
4864 our immigration law, and we can't be providing waivers so
4865 that we ignore this law, and we say because you might be some
4866 kind of relation to someone who entered the military in the
4867 United States, then we are going to exempt you from the law,
4868 but if you are not related to someone like that, then you are
4869 covered under the law.

4870 Everyone needs to be equal under the law. That is one
4871 of the principles of the law after all. To grant amnesty is
4872 to pardon immigration lawbreakers and reward them with the
4873 objective of their crime. This amendment denies at least that
4874 3-and 10-year bar waiver so that the objective of their crime
4875 is not easily approached, although there are other components
4876 of amnesty in the underlying bill.

4877 And we have tried to address many of the amnesty
4878 components in this as we have sought to perfect this
4879 legislation. I would point out that there have been
4880 significant improvements in the underlying legislation. Had
4881 we not brought amendments and made this a subject of debate
4882 before this committee, you would see a bill go to the floor
4883 in far worse condition than this one may should it pass this
4884 committee today.

4885 But this is an example of how you put sunlight on
4886 something and you seek to improve it. This improves it
4887 significantly, but if the bill goes to the floor of the House
4888 of Representatives, it goes through the rules in the fashion
4889 the energy bill went through the rules committee night before
4890 last, which is the rules committee apparently was existed to
4891 make sure that there were no amendments allowed and we are
4892 sending a bill directly to the floor—if it gets through this
4893 committee and no amendments are allowed by the rules
4894 committee, there is no further perfection that the House can

4895 do except vote this bill up or down.

4896 Well it carries a significant amnesty component within
4897 it, and it has many opponents of amnesty that will have to
4898 take shots at any of the United States senators well on the
4899 floor of the House of Representatives. And so I seek to at
4900 least pull the amnesty target out of this bill by my
4901 amendment that eliminates the waiver for the 3-and 10-year
4902 bar, and then I would add that additional subject matter that
4903 seems to continue to emerge is the subject wounded warriors.

4904 I can't find anything in this bill about wounded
4905 warriors. Although they are part of the overall discussion,
4906 this is not, for clarity's purpose, a wounded warrior's
4907 underlying bill. This is a bill that addresses those
4908 veterans who have been in our military, those that are
4909 currently in our military and their family members and to
4910 some definitions of family that would include extended family
4911 members.

4912 So however that might flip your heart—and I would say
4913 also that when it comes to wounded warriors in particular,
4914 some family members of wounded warriors—it is not impossible
4915 to pass a private bill, and the fact that the House has
4916 passed a number of them since I have been here, and the
4917 Senate has not acted does not reflect upon our responsibility
4918 then to grant a broad waiver or anything that might be
4919 characterized as being deserving of our sympathy because the

4920 Senate didn't have sympathy in the case of the private bills
4921 that we passed out of the House of Representatives.

4922 So my amendment, Mr. Chairman, eliminates the waiver for
4923 the 3-year bar, which is 180 to 364 days in the United States
4924 illegally, or the 10-year bar, which is a year or more, and
4925 it does reduce the definition of amnesty on the underlying
4926 bill. It should be something that both sides could support.
4927 I urge its adoption, and I yield back the balance of my time.

4928 Mr. Watt. The gentleman yields back. The chair of the
4929 subcommittee, Ms. Lofgren, recognized for 5 minutes.

4930 Ms. Lofgren. Thank you, Mr. Chairman. I don't think
4931 this is the place to have a debate on the value of the 3-and
4932 10-year bar experiment from the 1996 Act. Certainly, we have
4933 received testimony that, although the proponents of the bar
4934 in 1996 suggested that it would eliminate illegal
4935 immigration, in fact, the testimony we have received in the
4936 subcommittees specifically in April of 2007, indicates that
4937 in fact aggravated that problem.

4938 But we don't have to have that debate today, because
4939 this is really actually a much narrower fix. This is about
4940 the close family members of American soldiers. And we had
4941 hearings on this situation, and we came across situations
4942 that were really unconscionable.

4943 We had the witness who came in his Navy whites—came in
4944 his Navy whites. He was married to a woman who was

4945 originally from another country. She was brought to the
4946 Unites States at the age of five, and she and her mother were
4947 pursuing legalization, but when she met our American Navy guy
4948 and they fell in love and they got married, she didn't
4949 realize that she was ruining the application that had been
4950 filed by her mother for her.

4951 And so she ended up not even knowing that she was in a
4952 questionable status by marrying an American member of the
4953 armed services, and his testimony to us was how could he be
4954 deployed worrying about whether his wife was going to be
4955 deported while he was in the Gulf, and the letter that we
4956 have gotten from General Sanchez makes that point.

4957 This is a readiness issue for the Department of Defense.
4958 We can't have soldiers and sailors deployed to the Gulf
4959 living in fear that while they are gone, their husbands,
4960 their wives, their children are going to end up being
4961 deported.

4962 I would ask unanimous consent that we put into the
4963 record of today's markup a report from CBS AP that talks
4964 about the missing soldier in Iraq in June of last year—
4965 kidnapped by insurgents possibly Al Qaeda, meanwhile, the
4966 wife of this American soldier kidnapped by Al Qaeda is home
4967 in Massachusetts in deportation proceedings by the United
4968 States government that her husband is fighting and risking
4969 his life for.

4970 So this—

4971 Mr. Watt. Without objection it will be submitted.

4972 [The information follows:]

4973 ***** INSERT *****

4974 Ms. Lofgren. Thank you, Mr. Chairman. We had another
4975 witness of—a soldier whose wife arrived legally in the United
4976 States when she was 13 years old, but her visa was
4977 overstated. It really wasn't even her decision; it was her
4978 parents' decision, and she married an American Army guy. He
4979 was deployed, and she was in deportation proceedings.

4980 This is not the way America should treat the close
4981 family members of its warriors, and I would urge my
4982 colleagues to oppose this amendment. It is bad news. It is
4983 not the right thing to do, and I yield back.

4984 Mr. Cannon. Would the gentlelady yield?

4985 Ms. Lofgren. I would yield before—

4986 Mr. Cannon. I thank the gentlelady, and just taking a
4987 couple of moments here. Mr. King was talking earlier about
4988 something that surprised me a little bit, he talked about
4989 this being a wounded warrior bill. I personally have never
4990 thought of it as a wounded warrior bill. I view it as a
4991 willing warrior bill.

4992 The point here is are we going to have people who will
4993 be committed to a course that may result in injury perhaps
4994 wounding or perhaps death, and because of that give them some
4995 kind of status change. In addition, my dear friend Mr. King
4996 has again used the amnesty word.

4997 This is not amnesty, although I am sure Mr. King will
4998 want to respond at this point. The fact is, we are making a

4999 tradeoff here between penalties. There is a 3-year bar.
5000 There is a 10-year bar, and there is a penalty associated
5001 with overstaying a visa. And what we are saying with this
5002 bill is that because of your willingness to be wounded, to be
5003 injured, to put your life at risk as a warrior for the things
5004 that we believe in the United States, we are willing to
5005 forego those bars.

5006 That is the nature of what this bill is. It is not a
5007 defect. It is not something that is being hidden. It is not
5008 an amnesty. It is a tradeoff of penalties for service, and
5009 with that—

5010 Mr. King. Will the gentleman yield?

5011 Ms. Lofgren. I would like to reclaim my time and ask
5012 unanimous consent that pages 115 and page 84 of the inspector
5013 general's report titled, "An Investigation of Allegations of
5014 Politicized Hiring by Monica Goodling and Other Staff in the
5015 Office of the Attorney General," be made a part of the
5016 record, because on page 115, for example, it indicates the
5017 evidence demonstrates that their violations were not isolated
5018 instances but were systematic in nature and that there was
5019 evidence that demonstrated that the DOJ—and it names the
5020 individuals—violated federal law by considering political and
5021 ideological affiliations in—

5022 Mr. Watt. Without objection, the gentlelady's unanimous
5023 consent is granted. And the gentlelady's time has expired.

5024 [The information follows:]

5025 ***** COMMITTEE INSERT *****

5026 Mr. Watt. The ranking member is recognized for 5
5027 minutes.

5028 Mr. Smith. Thank you, Mr. Chairman. I support this
5029 amendment. Our immigration laws have long lacked a firm and
5030 realistic penalty for illegal immigration. There is really
5031 no disincentive for illegal immigrants to try to stay
5032 underground and elude detection for as long as possible.

5033 If finally caught, there is no punishment other than
5034 simple removal. No impact on their future ability to return.
5035 The Illegal Immigration Reform and Immigrant Responsibility
5036 Act of 1996 put in place the firm and realistic punishments
5037 that were so needed.

5038 It provided that an alien unlawfully present in the U.S.
5039 for more than 180 days was barred from reentry for 3 years,
5040 and an alien unlawfully present in the U.S. for 1 year or
5041 more was barred from reentry for 10 years. The bill today
5042 seeks to repeal this reform we have made over 10 years ago.
5043 The bill seeks to spare illegal immigrants from the penalty
5044 for their illegal presence at least for most aliens who had
5045 ever served in the military or family members of service
5046 members. This is poor public policy. It is also, in
5047 essence, amnesty.

5048 Mr. King's amendment would strike the provision of the
5049 bill that waives the penalty for unlawful presence, and I
5050 urge my colleagues to support this amendment, and I will be

5051 happy to yield to either my colleague from California or the
5052 gentleman from California, Mr. Gallegly.

5053 Mr. Gallegly. Thank you very much, Ranking Member
5054 Smith. I was going to seek my own time, but I won't if we
5055 have enough time that we could yield back to Steve King,
5056 because as—

5057 Mr. Smith. Let me yield to Mr. King, and then you take
5058 your own time if that is all right.

5059 Mr. Gallegly. Let me just make one statement. The bill
5060 clearly—with all due respect to my good friend, Mr. Cannon—if
5061 it walks like a duck and talks like a duck, there is a chance
5062 that it may resemble a duck, and this clearly by my
5063 understanding and definition of amnesty—the end result—call
5064 it whatever you like, the end result is amnesty, in my
5065 opinion, and I respect my good friend from Utah's subjective
5066 opinion on this, but I disagree with him, and I would yield
5067 back.

5068 Mr. Smith. And I would now yield to the gentleman from
5069 Iowa, Mr. King.

5070 Mr. King. I thank the ranking member from Texas for
5071 yielding, and in response to my friend from Utah, we have had
5072 many debates on the definition of the term amnesty, but I
5073 also would take the point that if it is what you are
5074 advocating, and it is amnesty that politically you can't
5075 sell, then you have to seek to re-define the term amnesty,

5076 and not alleging that that is the case from my friend from
5077 Utah; that is the case politically for those that advocate
5078 for amnesty.

5079 So I would reiterate my definition of amnesty. I think
5080 it holds up very well. To grant amnesty is to pardon
5081 immigration lawbreakers and reward them with the objective of
5082 their crime. I am opposed to that. There are many
5083 provisions in this bill that allow for that. I will be
5084 opposing the underlying bill for that reason.

5085 But I do want to agree with the gentleman from Utah and—
5086 to this point—and to restate this: My statement about
5087 wounded warriors was to clarify that this bill is not
5088 specifically about wounded warriors. This is about veterans
5089 and current military personnel and their family who will be
5090 granted a path to citizenship under the provisions allowed in
5091 this bill.

5092 I think the gentleman from Utah's characterization of
5093 willing warrior is actually an accurate one. However you
5094 might decide you want to support the underlying bill, I think
5095 it is an accurate characterization. So I appreciate the
5096 opportunity to lend some clarity to this argument, and I
5097 always appreciate the arguments from my friend from Utah.

5098 I would yield back to the gentleman from Texas as well.
5099 Appreciate it.

5100 Mr. Cannon. Would the gentleman yield?

5101 Mr. Smith. And very grudgingly will I yield to the
5102 gentleman from Utah.

5103 Mr. Cannon. The gentleman shouldn't yield grudgingly.
5104 We have a great relationship—

5105 Mr. Smith. I am happy—

5106 Mr. Cannon. I know you are.

5107 Mr. Smith. I will strike that. I am happy to yield to
5108 the gentleman from Utah.

5109 Mr. Cannon. You know, what we ought to make clear here,
5110 and Mr. King, I think, has been very consistent and very
5111 clear—his description includes pardoning immigration
5112 lawbreakers is the term he uses. Now you can break the law
5113 without being criminal, and that is a distinction that we
5114 ought to have very clearly here.

5115 Being in the United States with—overstaying a visa or
5116 being brought as a child when you didn't have the ability to
5117 consent is not a crime. Now it is a—in a sense, I suppose,
5118 breaking the law, but it is one of those things that we have—
5119 even under the 1996 Act, we didn't call it a crime.

5120 So the distinction ought to be very clear here. It is
5121 not amnesty in the sense that you are forgiving a crime. It
5122 may be amnesty in this larger but more vague sense, which I
5123 think you have defined adequately, Mr. King, without it
5124 actually being criminal.

5125 Whether you—without quibbling on distinction such as

5126 this—which is—the more important this is what do we do here
5127 as a Congress, because if we decide that it is acceptable for
5128 a warrior who subjects himself to great bodily risk and harm
5129 to defend our country, should we give that person status?

5130 I don't think that calling it amnesty actually advances
5131 that debate or that discussion. And on the other hand, it is
5132 absolutely clear that if you use the dictionary definition of
5133 amnesty, you have to consider criminality in the definition.
5134 And with that distinction, I would be happy to yield back.

5135 Mr. Watt. The gentleman's time has expired. All the
5136 time has expired. The question occurs on the amendment
5137 offered by Mr. King.

5138 All in favor say "aye."

5139 [A chorus of ayes.]

5140 Mr. Watt. All opposed say "no."

5141 [A chorus of noes.]

5142 Mr. Watt. The noes seem to have it. The noes have it.

5143 Mr. King?

5144 Mr. King. I would ask for a recorded vote.

5145 Mr. Watt. Asked for a recorded vote, and the clerk will
5146 call the roll.

5147 The Clerk. Mr. Conyers?

5148 [No response.]

5149 Mr. Berman?

5150 [No response.]

5151 Mr. Boucher?
5152 [No response.]
5153 Mr. Nadler?
5154 [No response.]
5155 Mr. Scott?
5156 [No response.]
5157 Mr. Watt?
5158 Mr. Watt. No.
5159 The Clerk. Mr. Watt votes no.
5160 Ms. Lofgren?
5161 Ms. Lofgren. No.
5162 The Clerk. Ms. Lofgren votes no.
5163 Ms. Jackson Lee?
5164 [No response.]
5165 Ms. Waters?
5166 [No response.]
5167 The Clerk. Mr. Delahunt?
5168 [No response.]
5169 The Clerk. Mr. Wexler?
5170 [No response.]
5171 The Clerk. Ms. Sanchez?
5172 Ms. Sanchez. No.
5173 The Clerk. Ms. Sanchez votes no.
5174 Mr. Cohen?
5175 [No response.]

5176 Mr. Johnson?
5177 Mr. Johnson. No.
5178 The Clerk. Mr. Johnson votes no.
5179 Ms. Sutton?
5180 [No response.]
5181 Mr. Gutierrez?
5182 Mr. Gutierrez. No.
5183 The Clerk. Mr. Gutierrez votes no.
5184 Mr. Sherman?
5185 [No response.]
5186 Ms. Baldwin?
5187 [No response.]
5188 Mr. Weiner?
5189 Mr. Weiner. No.
5190 The Clerk. Mr. Weiner votes no.
5191 Mr. Schiff?
5192 Mr. Schiff. No.
5193 The Clerk. Mr. Schiff votes no.
5194 Mr. Davis?
5195 [No response.]
5196 Ms. Wasserman Schultz?
5197 Ms. Wasserman Schultz. No.
5198 The Clerk. Ms. Wasserman Schultz votes no.
5199 Mr. Ellison?
5200 Mr. Ellison. No.

5201 The Clerk. Mr. Ellison votes no.
5202 Mr. Smith?
5203 Mr. Smith. Aye.
5204 The Clerk. Mr. Smith votes aye.
5205 Mr. Sensenbrenner?
5206 [No response.]
5207 Mr. Coble?
5208 [No response.]
5209 Mr. Gallegly?
5210 Mr. Gallegly. Aye.
5211 The Clerk. Mr. Gallegly votes aye.
5212 Mr. Goodlatte?
5213 Mr. Goodlatte. Aye.
5214 The Clerk. Mr. Goodlatte votes aye.
5215 Mr. Chabot?
5216 Mr. Chabot. Aye.
5217 The Clerk. Mr. Chabot votes aye.
5218 Mr. Lungren?
5219 [No response.]
5220 Mr. Cannon?
5221 Mr. Cannon. No.
5222 The Clerk. Mr. Cannon vote no.
5223 Mr. Keller?
5224 Mr. Keller. Aye.
5225 The Clerk. Mr. Keller votes aye.

5226 Mr. Issa?

5227 Mr. Issa. Aye.

5228 The Clerk. Mr. Issa votes aye.

5229 Mr. Pence?

5230 [No response.]

5231 Mr. Forbes?

5232 Mr. Forbes. Aye.

5233 The Clerk. Mr. Forbes votes aye.

5234 Mr. King?

5235 Mr. King. Aye.

5236 The Clerk. Mr. King votes aye.

5237 Mr. Feeney?

5238 [No response.]

5239 Mr. Franks?

5240 [No response.]

5241 Mr. Gohmert?

5242 Mr. Gohmert. Aye.

5243 The Clerk. Mr. Gohmert votes aye.

5244 Mr. Jordan?

5245 Mr. Jordan. Aye.

5246 The Clerk. Mr. Jordan votes aye.

5247 Mr. Watt. Other members wishing to be recorded?

5248 Mr. Scott?

5249 Mr. Scott. No.

5250 The Clerk. Mr. Scott votes no.

5251 Mr. Watt. Mr. Conyers?
5252 Chairman Conyers. No.
5253 The Clerk. Mr. Conyers votes no.
5254 Mr. Watt. Mr. Nadler?
5255 Mr. Nadler. No.
5256 The Clerk. Mr. Nadler votes no.
5257 Mr. Watt. Mr. Schiff? Mr. Cohen?
5258 Mr. Cohen. No.
5259 The Clerk. Mr. Cohen votes no.
5260 Mr. Watt. Ms. Waters?
5261 Ms. Waters. No.
5262 Mr. Watt. Mr. Berman?
5263 The Clerk. -votes no.
5264 The Clerk. Mr. Berman votes no.
5265 Mr. Watt. Mr. Coble?
5266 COBLE? Aye.
5267 The Clerk. Mr. Coble votes aye.
5268 Mr. Watt. Other members wishing to be recorded? If
5269 not, the clerk will report.
5270 The Clerk. Mr. Chairman, 16 members voted no, 11
5271 members voted aye.
5272 Mr. Watt. And the amendment fails. Are there other
5273 amendments? If not, reporting quorum being present, the
5274 question is on reporting the bill as amended favorably to the
5275 House.

5276 Those in favor say "aye."
5277 [A chorus of ayes.]
5278 Mr. Watt. Opposed say "no."
5279 [A chorus of noes.]
5280 Mr. Watt. The ayes seem to have it, and the bill as
5281 amended is ordered reported favorably.
5282 Ms. Lofgren. Mr. Chairman?
5283 Mr. Smith. The ranking member.
5284 Mr. Watt. You want a recorded vote? Recorded vote is
5285 requested. The clerk will call the roll.
5286 The Clerk. Mr. Conyers?
5287 [No response.]
5288 Chairman Conyers. Aye.
5289 The Clerk. Mr. Conyers votes aye.
5290 Mr. Berman?
5291 Mr. Berman. Aye.
5292 The Clerk. Mr. Berman votes aye.
5293 Mr. Boucher?
5294 [No response.]
5295 Mr. Nadler?
5296 Mr. Nadler. Aye.
5297 The Clerk. Mr. Nadler votes aye.
5298 Mr. Scott?
5299 Mr. Scott. Aye.
5300 The Clerk. Mr. Scott votes aye.

5301 Mr. Watt?

5302 Mr. Watt. Aye.

5303 The Clerk. Mr. Watt votes aye.

5304 Ms. Lofgren?

5305 Ms. Lofgren. Aye.

5306 The Clerk. Ms. Lofgren votes aye.

5307 Ms. Jackson Lee?

5308 [No response.]

5309 Ms. Waters?

5310 Ms. Waters. Aye.

5311 The Clerk. Ms. Waters votes aye.

5312 Mr. Delahunt?

5313 [No response.]

5314 Mr. Wexler?

5315 [No response.]

5316 Ms. Sanchez?

5317 Ms. Sanchez. Aye.

5318 The Clerk. Ms. Sanchez votes aye.

5319 Mr. Cohen?

5320 Mr. Cohen. Aye.

5321 The Clerk. Mr. Cohen votes aye.

5322 Mr. Johnson?

5323 Mr. Johnson. Aye.

5324 The Clerk. Mr. Johnson votes aye.

5325 Ms. Sutton?

5326 [No response.]

5327 Mr. Gutierrez?

5328 [No response.]

5329 Mr. Sherman?

5330 [No response.]

5331 Ms. Baldwin?

5332 [No response.]

5333 Mr. Weiner?

5334 Mr. Weiner. Pass.

5335 The Clerk. Mr. Weiner passes.

5336 Mr. Schiff?

5337 Mr. Schiff. Aye.

5338 The Clerk. Mr. Schiff votes aye.

5339 Mr. Davis?

5340 [No response.]

5341 Ms. Wasserman Schultz?

5342 Ms. Wasserman Schultz. Aye.

5343 The Clerk. Ms. Wasserman Schultz votes aye.

5344 Mr. Ellison?

5345 Mr. Ellison. Aye.

5346 The Clerk. Mr. Ellison votes aye.

5347 Mr. Smith?

5348 Mr. Smith. No.

5349 The Clerk. Mr. Smith votes no.

5350 Mr. Sensenbrenner?

5351 [No response.]

5352 Mr. Coble?

5353 Mr. Coble. No.

5354 The Clerk. Mr. Coble votes no.

5355 Mr. Gallegly?

5356 Mr. Gallegly. No.

5357 The Clerk. Mr. Gallegly votes no.

5358 Mr. Goodlatte?

5359 Mr. Goodlatte. No.

5360 The Clerk. Mr. Goodlatte votes no.

5361 Mr. Chabot?

5362 Mr. Chabot. No.

5363 The Clerk. Mr. Chabot votes no.

5364 Mr. Lungren?

5365 Mr. Lungren. No.

5366 The Clerk. Mr. Lungren votes no.

5367 Mr. Cannon?

5368 Mr. Cannon. Aye.

5369 The Clerk. Mr. Cannon vote aye.

5370 Mr. Keller?

5371 Mr. Keller. No.

5372 The Clerk. Mr. Keller votes no.

5373 Mr. Issa?

5374 Mr. Issa. No.

5375 The Clerk. Mr. Issa votes No.

5376 Mr. Pence?
5377 [No response.]
5378 Mr. Forbes?
5379 Mr. Forbes. No.
5380 The Clerk. Mr. Forbes votes no.
5381 Mr. King?
5382 Mr. King. No.
5383 The Clerk. Mr. King votes no.
5384 Mr. Feeney?
5385 [No response.]
5386 Mr. Franks?
5387 [No response.]
5388 Mr. Gohmert?
5389 Mr. Gohmert. No.
5390 The Clerk. Mr. Gohmert votes no.
5391 Mr. Jordan?
5392 Mr. Jordan. No.
5393 The Clerk. Mr. Jordan votes no.
5394 Mr. Watt. Other members wishing to be recorded?
5395 Mr. Gutierrez?
5396 Mr. Gutierrez. Yes.
5397 The Clerk. Mr. Gutierrez votes yes.
5398 Mr. Watt. Mr. Weiner?
5399 Mr. Weiner. Aye.
5400 The Clerk. Mr. Weiner votes aye.

5401 Mr. Watt. Other members wishing to be recorded, if not,
5402 the clerk will report.

5403 The Clerk. Mr. Chairman, 16 members voted aye, 12
5404 members voted no.

5405 Mr. Watt. The bill is ordered reported favorably as
5406 amended, and the motion to reconsider is laid on the table.
5407 Without objection, the bill will be reported as a single
5408 amendment in the nature of a substitute incorporating
5409 amendments adopted and the staff is authorized to make
5410 technical and conforming amendments. Members will have 2
5411 days to submit views.

5412 Mr. Scott. Pursuant to notice, we now resume our
5413 consideration of the bill H.R. 6598, the Prevention of Equine
5414 Cruelty Act of 2008. When we left off, we had reached the
5415 point of considering amendments. Are there any?

5416 [The bill follows:]

5417 ***** INSERT *****

5418 Mr. Goodlatte. Mr. Chairman?

5419 Mr. Scott. Yes, gentleman colleague from Virginia, Mr.

5420 Goodlatte.

5421 Mr. Goodlatte. I move to strike the last word.

5422 Mr. Scott. The gentleman is recognized.

5423 Mr. Goodlatte. Thank you, Mr. Chairman. Mr. Chairman,

5424 I oppose H.R. 6598. Of course, all of us in this room

5425 support the humane treatment of all animals including those

5426 in our nation's farms and in our homes.

5427 I believe we all share a responsibility for the careful

5428 stewardship of the animals in our charge; however, H.R. 6598

5429 does nothing to ensure the humane treatment of the very

5430 animals it is designed to protect, horses.

5431 This legislation is not going to solve the problem the

5432 horse industry faces today. That is what to do with the

5433 unwanted horses. H.R. 6598 will either be ineffective

5434 because people will evade the law, or it will be effective

5435 and the attorney general will become the owner of thousands

5436 of confiscated horses.

5437 Years of debate and a series of litigation and state

5438 action caused three horse processing facilities in the U.S.

5439 to close. As a direct result of those closures, horses are

5440 being neglected and abandoned at an alarming rate. Rescue

5441 facilities and animal shelters are overwhelmed without the

5442 money or the space to expand and accept additional horses.

5443 And most disturbing, the number of horses exported to
5444 Mexico and Canada for processing has increased. National
5445 news articles printed in the Wall Street Journal, New York
5446 Times, and Time Magazine, which are before the members, and
5447 other articles have described the increase in horse welfare
5448 complaints, abandonment, abuse, and neglect.

5449 Caring for a horse is expensive, and horse owners are
5450 grappling with the high price of feed and hay. Widespread
5451 drought in regions of the country have depleted available
5452 pasture. Also there are simply not enough horse rescue
5453 facilities to accommodate the exploding number of unwanted
5454 horses. According to the Detroit news media, Horse Haven, a
5455 not-for-profit horse rescue shelter in Howell, Michigan has
5456 said its stables are filled to capacity, and it has turned
5457 away sick and abandoned horses.

5458 Horse Haven president, Barbara Baker, says she is forced
5459 to turn away 100 or more horses and miniature horses a week
5460 from desperate pet owners. This bill does nothing to rectify
5461 any of these problems. In fact, if it is successful, these
5462 problems will worsen.

5463 H.R. 6598 does not provide funding to care for unwanted
5464 horses. H.R. 6598 does not provide for additional horse
5465 rescue and retirement facilities. H.R. 6598 does not require
5466 such facilities are properly regulated to ensure humane
5467 treatment. H.R. 6598 does not prevent Mexican or Canadian

5468 horse processing facility buyers from circumventing the law
5469 by labeling the horses as breeding stock or for other non-
5470 slaughter purposes.

5471 But what it does do is require the attorney general of
5472 the United States to provide for the humane placement or
5473 other human disposition of any horse seized under this law.
5474 That means the attorney general would be responsible for the
5475 care of up to 100,000 horses that will be displaced by
5476 passage of this bill.

5477 What is the attorney general to do with thousands of
5478 confiscated horses? Is the Justice Department going to hire
5479 new GS-11 horse wranglers and start the DOJ brand ranch to
5480 house these horses? Is there going to be a new horse
5481 adoption agency to compete with the Interior Department's
5482 failed wild horse adoption program?

5483 Is this really how we want the attorney general's time
5484 and resources to be spent? H.R. 6598 will only burden the
5485 Department of Justice with increased costs and distractions,
5486 and ultimately does not ensure the protection of horses. If
5487 you truly care about the humane treatment of horses, then
5488 understand that H.R. 6598 will only add to the number of
5489 these fine animals that are abused or neglected.

5490 This legislation is woefully inadequate, emotionally
5491 misguided, and fails to serve the best interests of the
5492 American horse and horse owner despite what the proponents

5493 would have you believe. I urge my colleagues to vote no on
5494 this bill.

5495 And, Mr. Chairman? I would ask unanimous consent to
5496 submit for the record three letters. One from more than 50
5497 different horse and other animal organizations setting forth
5498 their detailed reasons why they are opposed to the
5499 legislation; one from the National Thoroughbred Racing
5500 Association, which has previously supported legislation to
5501 ban horse slaughter but raises very serious concerns about
5502 this legislation; and a third from the National Cattlemen's
5503 Beef Association on behalf of more than two dozen livestock
5504 organizations expressing concerns about the impact that this
5505 legislation will have on their industry, which widely uses
5506 horses in their business.

5507 Mr. Scott. Without objection.

5508 [The information follows:]

5509 ***** INSERT *****

5510 Mr. Goodlatte. Thank you, Mr. Chairman.

5511 Mr. Scott. The gentleman's time has expired. That will
5512 strike the last word. And just point out that H.R. 6598
5513 addresses the continuing problem of horse slaughter for human
5514 consumption in the United States.

5515 We do not raise horses for human consumption. We raise
5516 horses as work horses, race horses, pets for ourselves and
5517 our children. We don't use them as sources of food. In
5518 2007, the last three factories in the United States that
5519 slaughtered horses for human consumption abroad were closed
5520 by state laws.

5521 The problem hasn't gone away. It is merely moved across
5522 the border. Between 2006 and 2007, the number of horses
5523 shipped to Mexican slaughter houses more than tripled. The
5524 number of horses exported to Canada increased by almost 50
5525 percent. Proponents of this bill argue that horse slaughter
5526 provides a convenient disposal for unwanted horses and that
5527 without this slaughter, the number of unwanted horses will
5528 continually and dramatically increase.

5529 But this seems unlikely. Since 1990, the number of
5530 horses going to slaughter has decreased from a high of more
5531 than 350,000 to just over 120,000 horses last year with no
5532 correlating epidemic of unwanted horses. Moreover, even if
5533 some unwanted horses did result from a ban on the exportation
5534 of horses for slaughter for human consumption, it appears

5535 that there are countless animal rescue groups across the
5536 country ready and willing to care for these horses.

5537 At our hearing, we heard from the National Black Farmers
5538 Association, the Human Society, and the Animal Welfare
5539 League, all large organizations with many members who are
5540 willing to help. We also received letters from countless
5541 horse rescue organizations across the country that are
5542 offering their help.

5543 Proponents also argue that horse slaughter for human
5544 consumption is a form of human euthanasia, but the majority
5545 of veterinary sources suggest otherwise. They find that most
5546 human euthanasia is relatively painless and inexpensive
5547 chemical injection process costing about \$225 given to the
5548 horse at its ranch or farm.

5549 The process involved in the slaughter of horses in
5550 Mexico and Canada is far from humane. The slaughter process
5551 generally starts with the purchase of horses at a horse
5552 auction by a killer buyer who often outbids locals who cannot
5553 match the price with a killer buyer. The horses then travel
5554 long distances, sometimes more than 24 hours to the slaughter
5555 house with no water, food, or rest.

5556 Procedures for killing the horse at the slaughter houses
5557 vary, but by all accounts, each is extremely disturbing.
5558 H.R. 6598 responds to the problem but draws the line in the
5559 sand and codifies our cultural values that we do not eat

5560 horses, and we do not condone cruelty to animals. It
5561 addresses a national problem with a national law that will
5562 stop the lucrative business of horse slaughter for human
5563 consumption of those outside the United States.

5564 In closing, I want to thank the chairman of the full
5565 committee for his hard work on the bill and encourage my
5566 colleagues to support it. I yield back the balance of my
5567 time.

5568 Mr. Cannon. Would the gentleman yield—

5569 Mr. Scott. I yield.

5570 Mr. Cannon. —for a question.

5571 Mr. Scott. I yield.

5572 Mr. Cannon. Actually, I have several questions. As the
5573 gentleman knows from the last time that we had this hearing
5574 that—of my feelings about this, but it costs \$225 for an
5575 injection to put a horse down as the gentleman just said—what
5576 do you do with the carcass after you have put the horse down
5577 and how do you pay—and how much does that cost?

5578 Let me just suggest that it is the disposal of the body,
5579 which is—of the horse—which is the biggest difficulty for
5580 people who keep horses.

5581 Mr. Scott. You would dispose of them the same way you
5582 dispose of all the other horses that die.

5583 Mr. Cannon. Well many of the other horses that die, die
5584 in slaughter houses and become not food for human

5585 consumption, but..

5586 Mr. Scott. And some die natural deaths. I mean, they
5587 are dealt with the same way any other horse that dies.

5588 Mr. Cannon. Except that almost no horses die a natural
5589 death, because they get old, and they start hurting, and
5590 their masters can't ride them anymore, and they love them,
5591 and they want the best to happen for them, and so they sell
5592 them, and they get used for dog food or other kind of—in some
5593 cases, I guess, there are some cultures that eat horse meat.

5594 I spend some time in Kazakhstan, I ate a lot of horse
5595 meat. It is not my preferred meat, by the way, but whether
5596 it is for human consumption or non-human consumption, there
5597 was a way to get rid of these huge animals, and with an
5598 injection, all you end up with a horse that died humanely,
5599 and that will make an owner feel better, but then what do you
5600 do to dispose of the carcass? It is not like it is an
5601 ordinary thing.

5602 Mr. Goodlatte. If the gentleman would yield.

5603 Mr. Cannon. I yield to the gentleman.

5604 Mr. Goodlatte. I thank the gentleman. The answer to
5605 the gentleman from Utah's question is this is a very
5606 emotional issue for these people. In many instances when
5607 there is no longer the slaughter option, which has been taken
5608 away because of the closure of these plants, they take them
5609 out in the countryside, they let them go, the articles here—

5610 the Wall Street Journal, Time Magazine—proliferate in terms
5611 of the amount of abandoned, unwanted horses.

5612 They also let them starve. The increase in the number
5613 of horses a year who are mistreated because of the lack of an
5614 effective way to dispose of the animals is well documented in
5615 major national publications, and the gentleman's point, I
5616 think, is very well taken.

5617 Mr. Cannon. And if the gentleman would continue to
5618 yield, let me just suggest that the cost to bury a horse—that
5619 means that you have to hire a backhoe, and you have got
5620 several hours of digging and then burying—this is a huge
5621 problem for horses. In other words, what we are going to do
5622 with this bill is going to inflict a great deal more pain on
5623 horses and owners of horses than we would possibly alleviate,
5624 because the system has worked very well. This will change
5625 the system. Thank you.

5626 Mr. Scott. Thank you and reclaiming my time, the rescue
5627 groups have indicated that they would be willing absorb this
5628 burden. I yield back the balance of my time.

5629 Mr. Issa. Mr. Chairman?

5630 Mr. Scott. I yield back the balance—yes, the gentleman
5631 from California?

5632 Mr. Issa. If it is in order, I have an amendment at the
5633 desk.

5634 Mr. Scott. The clerk will report the amendment.

5635 The Clerk. Amendment to H.R. 6598 offered by Mr. ISSA
5636 of California. Page three, after line six, insert the
5637 following: No conduct is an offense under this section if
5638 that conduct is not also a criminal offense under a law
5639 relating to the slaughter of horses for human consumption in
5640 the state in which the conduct occurs. Re-designate
5641 succeeding sections–subsections accordingly.

5642 [The amendment by Mr. Issa follows:]

5643 ***** INSERT *****

5644 Mr. Scott. The gentleman is recognized for 5 minutes.

5645 Mr. Issa. Thank you, Mr. Chairman. In short, it is my
5646 intent with this amendment to limit this legislation to
5647 supporting an underlying state law. I recognize that some
5648 people will try to be consistent on it, inconsistent on it,
5649 but at the end of the day, we have chosen to criminalize the
5650 transport for a purpose outside the U.S. when, in fact, in
5651 the state in which it occurs, it may be perfectly legal to
5652 slaughter.

5653 And if we have states that choose under their rights as
5654 a federalist, I support that their right to ban this—to come
5655 up with alternate ways to dispose of animals, then the
5656 support of preventing somebody from circumventing their state
5657 law by exporting the animal would make good common sense.

5658 Today, under the current legislation, it doesn't. This
5659 is narrow. It is intended only to make sure there is at
5660 least one state involved that has jurisdiction for some
5661 aspect of the conduct that we are choosing to criminalize
5662 here today, and this is neither for nor against, but is
5663 intended to preserve some level of state sovereignty in that
5664 somebody simply shipping a horse to another state—if it is
5665 not illegal to slaughter in any way, shape, or form, is not
5666 circumventing, and that interstate commerce should not
5667 criminalize it for that purpose.

5668 So limiting it to that, and one of the reasons is, quite

5669 frankly, we have not banned the killing of horse for
5670 consumption or moose—as we know from the Republican
5671 convention—or bear, or virtual—not virtually but any other
5672 mammal, even the whale and the dolphin by some Indian tribes
5673 are presently being hunted, killed and eaten.

5674 So as long as the consumption is not inherently illegal,
5675 and the slaughter is not illegal, I think we fall short. So
5676 this would be very narrow, and I think would support state
5677 and groups that believe in this—finding solutions and passing
5678 laws at the state level, and with that, I would yield back.

5679 Mr. Scott. The gentleman's time has expired. Move to
5680 strike the last word on the amendment. Basically this would
5681 eliminate the purpose of the bill which is to make it a
5682 federal law. If the amendment passes, it would be illegal
5683 where it is illegal already. There would be no purpose to
5684 pass the law.

5685 Mr. Issa. Would the chairman—

5686 Mr. Scott. I yield.

5687 Mr. Issa. We were intending just the opposite. The
5688 fact is that if somebody ships the horse out of the state, we
5689 would have federal violation as a result. You might remember
5690 Mr. Nadler during the hearing brought up a point, and I took
5691 it to heart—during another hearing—that we made it illegal to
5692 send a minor outside of a state for purposes of an abortion
5693 if that state said that that child was protected in some

5694 other way.

5695 It was circumvention, and we attached a federal clause
5696 to it. This would do the same thing. It would attach the
5697 clause when interstate occurs in order to circumvent a state
5698 law, and that would give you a hook where you could arrest
5699 people in-participating at all levels in a state where it was
5700 not illegal if, in fact, they had participated in something
5701 that was illegal in the state from which the horse left.

5702 Mr. Scott. Well, reclaiming my time. Again, it is—the
5703 amendment says no conduct is an offense under this section if
5704 the conduct is not also a criminal offense under the law
5705 relating to slaughter in which the conduct occurs, and so it
5706 would not—under this bill, with this amendment, it would not
5707 be illegal unless it is already illegal. And if it is
5708 already illegal, you don't need to pass a bill.

5709 I would hope that we would uphold the bill. We are
5710 trying to make a federal law prohibiting the slaughter of
5711 horses for human consumption—

5712 Mr. Goodlatte. Would the gentleman yield?

5713 Mr. Scott. —as a federal law. This bill would say
5714 there is no federal law; it is only illegal where it is
5715 already illegal, and we can do that by—we would just be
5716 wasting our time passing a federal law. I yield to the
5717 gentleman from Virginia.

5718 Mr. Goodlatte. I think part of the point of what the

5719 gentleman from California's trying to make is that it is not
5720 illegal in any state. It is not illegal under the federal
5721 law, and this doesn't make it illegal either. This simply
5722 makes it illegal to export it. That doesn't make any sense
5723 to me at all that you would say it was permissible to do it
5724 in the United States, but somehow you can't export it for
5725 that purpose. What is the point of that?

5726 Mr. Issa. Would the chairman yield for one more
5727 clarification?

5728 Mr. Scott. I will yield.

5729 Mr. Issa. The state of California does make horse
5730 slaughter illegal. So we are not saying that no state has
5731 taken action. We are simply saying that a federal law
5732 without some underlying crime would seem to be—and we are
5733 only criminalizing the export; we are not criminalizing the
5734 act.

5735 So the truth is, if Nevada doesn't care, and you
5736 slaughter and eat your horse, you have done nothing wrong.
5737 If California cares, you have. I simply choose to have this
5738 law allow the states the first bite at the apple, and we will
5739 support that bite if they choose to participate in it.

5740 Mr. Scott. Well, reclaiming my time, in practice, there
5741 is no domestic slaughter because there are no domestic
5742 slaughter houses, and so this would prohibit the practice of
5743 exporting horses knowing that the horse would be slaughtered

5744 for human consumption. And that is what the bill does. The
5745 amendment would essentially—well we wouldn't have a bill.

5746 Yield back the balance of my time.

5747 The gentleman from New York.

5748 Mr. Nadler. Thank you. Let me say, first of all, that
5749 I think Mr. Issa's amendment is an amendment—I mean, if you
5750 don't like the bill, you should be against the bill.

5751 I mean, the bill simply says we want to make it a crime
5752 in or affecting interstate commerce. It doesn't necessarily
5753 mean going across the state line—in or affecting interstate
5754 commerce has a wider meaning as we know, but we don't have to
5755 debate constitutionally right now—possesses, ships, et
5756 cetera, et cetera, a horse with the intent to be used for
5757 human consumption is a crime.

5758 Now some of us support that. If you don't support it,
5759 say so, vote against it. Either we make it a federal crime,
5760 or we don't. To come up with this amendment that somehow
5761 says that somehow says—that implies that Congress shouldn't
5762 make it a federal crime unless it is a crime in the state, I
5763 don't understand that.

5764 Congress should make it a crime if we think it ought to
5765 be a crime, whether or not a given state makes it a crime.
5766 And again, if it is a crime in that state already, I don't
5767 see what we are adding. In addition to which, unless you
5768 want to say—and here that abortion bill—one of the grounds on

5769 which I oppose that abortion bill, the underlying subject of
5770 abortion quite aside, is I think it is improper. I think it
5771 is improper to try to use federal law to export the law of
5772 one state to another.

5773 And it is one thing to say, as this bill does, let's
5774 make it a federal crime in interstate to commerce to do this.
5775 It is another thing to say, let's make it a federal crime in
5776 interstate commerce to do this from Nevada into Arizona even
5777 if Arizona says it is okay. I don't think you try to export
5778 the law of one state into another through the use of federal
5779 power.

5780 And I just don't see the point of this amendment at all.
5781 Either we think this is the right thing to do or we don't.
5782 If we think it is the right thing to do—and I do—we should
5783 vote for the bill. If you think it isn't, you should vote
5784 against the bill. So I oppose the amendment, because I think
5785 it just muddies the waters, and I think it gets into real
5786 questions of the use of federal power.

5787 Mr. Scott. Gentleman yields back—

5788 Mr. Nadler. I yield back the balance of my time.

5789 Mr. Scott. —of his time. Any other—the gentleman from
5790 Virginia.

5791 Mr. Forbes. Sir, Mr. Chairman, I move to strike the
5792 last word.

5793 Mr. Scott. The gentleman is recognized for 5 minutes.

5794 Mr. Forbes. Thank you, Mr. Chairman, I hope we will
5795 support this amendment. I know we won't. I hope we will
5796 defeat the bill. I know we won't. There is simply nobody on
5797 this committee who likes horses better than I do. I have
5798 owned one since I was 11 years old. I have three today.

5799 I supported the legislation that prohibited federal tax
5800 dollars from going to slaughter houses. Mr. Chairman, you
5801 read at the outset that we do not raise horses for human
5802 consumption; therefore, we need to make this a crime and lock
5803 people up for up to 3 years in federal prison who violate it.

5804 But we also do not raise our children to become addicted
5805 to drugs or enlisted in gangs, but many of the same people
5806 who are pushing this legislation are the very ones who
5807 constantly come in here and talk about the overcrowding we
5808 have in prisons, who talk about the fact that we shouldn't be
5809 locking up more people, and this legislation finally makes it
5810 clear to us, we are not concerned about the number of people
5811 we are locking up or making new crimes, we are just concerned
5812 about who those people are.

5813 And it is okay to make weaker penalties, because we
5814 don't want to lock up more drug dealers or more gang members,
5815 but it is okay when its farmers and ranchers. And Mr.
5816 Chairman, that just doesn't make sense to me. This is
5817 clearly a bill that goes too far to create a federal offense
5818 for this issue when we are talking about weakening crimes for

5819 such things as gang members who are committing violent acts,
5820 drug dealers, just makes no common sense.

5821 I hope it doesn't make any common sense to the members
5822 of this committee. I hope we will support this amendment. I
5823 hope we will defeat the bill, and I yield back the balance of
5824 my time.

5825 Mr. Scott. The gentleman's time is expired. Other
5826 comments? If not, the question is on the amendment from the
5827 gentleman—

5828 Mr. King. Mr. Chairman?

5829 Mr. Scott. The gentleman from Iowa.

5830 Mr. King. I seek recognition and move to strike the
5831 last word.

5832 Mr. Scott. The gentleman is recognized for 5 minutes.

5833 Mr. King. Thank you, Mr. Chairman. Before we get into
5834 the improvement aspects of this bill, I wanted to lay out
5835 just some basic principles here so that we are all talking
5836 off of a same page, so to speak.

5837 We have dealt with this debate significantly in the
5838 past, and we have had it on the floor a number of times. And
5839 as I listen to the distinctions in the amendment, I point
5840 this out: that if we seek to intervene between two states
5841 that don't have an objection—say, for example, if North
5842 Dakota and South Dakota—one had a slaughter plant for horses
5843 and the other one did not, and neither one of them had any

5844 kind of legislation that banned the transport of horses for
5845 going across the state line, then this legislation as written
5846 with the Issa amendment intervenes from a federalists
5847 perspective.

5848 Again, I bring the point up that I mentioned earlier in
5849 previous legislation today is, I listened to the majority
5850 leader last night talk about the Heller case and the second
5851 amendment in Washington, D.C. and how he believes—and I
5852 disagree—but how he believes it is a violation of our—the
5853 federalists principles for Congress to intervene in decisions
5854 made by Washington, D.C. when that is a constitutional
5855 authority and responsibility that we have and a process of
5856 protecting a constitutional amendment—the second amendment.

5857 And so we get to this point here in federalism where we
5858 decide we are going to intervene in the case of people who
5859 want to raise a horse and harvest that horse and put that
5860 horse on somebody's dinner table. I can think of no species
5861 that is banned for human consumption in America.

5862 I think you can eat poison ivy. I think you could eat a
5863 mouse if you chose. I don't know of any society that hasn't
5864 eaten whatever was available when it was hungry and needed
5865 to. I also don't know of horse owners that don't respect and
5866 love their horses, as Mr. Forbes said, and I grew up around
5867 horses too, and we are temporarily out of horses, I regret to
5868 say, but we are getting back into it. Just the last year, we

5869 are out, but we will get back into it again.

5870 We treat our livestock with respect—all of our livestock
5871 with respect. Horses are livestock. They are a property
5872 that is owned by the people that happen to have the title and
5873 deed, however that might be defined. And I can't think of
5874 anybody that does a better job of taking care of them, loving
5875 and respecting them than those that own them. I think it is
5876 an egregious thing for us to take the position here in this
5877 Congress that those people can't make the best decisions
5878 about the well being.

5879 And then, as I look at what is happening in my part of
5880 the country where I travel around throughout the district,
5881 and yes, we are rural, and we are rural enough that there are
5882 286 towns in my district. That means we also have a lot of
5883 farmers, a lot of livestock owners, a lot of horse people.
5884 And I have a quite a few pairs of cowboy boots myself. And
5885 by the way—and I hear them tell me, if you have a horse and a
5886 pasture or two horses and a pasture, you had better put a
5887 lock on the gate and maybe guard it, because the next
5888 morning, you might have three horses, four horses, or five
5889 horses in that pasture.

5890 I have watched the market—I have watched the market go
5891 down, and the markets that are \$500 or \$600 market for a
5892 horse that maybe has lived out its life of usefulness, maybe
5893 a horse that was a pretty skittish horse that would—maybe a

5894 mean horse, a horse that might get sold at the sale barn and
5895 become somebody's pet and will hurt or damage a child didn't
5896 go to harvest, because there was no market for that.

5897 Mr. Weiner. Will the gentleman yield?

5898 Mr. King. I would yield.

5899 Mr. Weiner. You are careening to some different issues,
5900 but I just want to get to the state's rights. Which state do
5901 you believe this bill preempts?

5902 Mr. King. I am talking philosophically. So I only gave
5903 an example here—

5904 Mr. Weiner. I am new to the issue. Brooklyn is not
5905 heavily populated with either slaughter houses or horses—

5906 Mr. King. Your horses where diapers there.

5907 Mr. Weiner. —but is there a state that you are standing
5908 up for? Is there a law, because would you be satisfied if it
5909 said this is deemed not to preempt any existing state law?

5910 Mr. King. I am sorry, could you repeat that please?

5911 Mr. Weiner. Yes, I am just trying to understand if you
5912 are in the abstract talking about a preemption issue, and not
5913 wanting to have the federal government big foot state rights.
5914 The question is, is there a state in particular, and if there
5915 is not, would you be satisfied if the bill said this doesn't
5916 preempt any state law that bans it, or I mean it—

5917 Mr. King. I am reclaiming my time. It would be helpful
5918 to see the Issa amendment passed on this. I think it does

5919 clarify that issue of intervention and preemption by the
5920 federal government. And that is a point, but I was—
5921 —not specifically, and so I can't give you an example of
5922 two states that are side-by-side where that might be the
5923 case, although I would be confident they exist out there,
5924 because especially in the upper Midwest and in the West, we
5925 don't pass legislation like this. We manage our livestock.
5926 We do so appropriately, and we do so with a sense of
5927 responsibility, and so I would—you know I would add to this
5928 that out of the—horses are livestock, and they are property
5929 of the owners, and they are carefully taken care of and
5930 respected.

5931 And if you look across society at the history of the
5932 world, there is the people who have raised horses, and there
5933 are horses raised in this world for human consumption
5934 specifically, and I can look up at least three species in
5935 Central Asia that are for that purpose—there is nothing
5936 inherently wrong about it.

5937 The Europeans don't understand why there would be
5938 anything inherently wrong about it, but it is more respect
5939 for a horse to market him and cash the money and manage a
5940 herd then it is to slaughter them and drag them over the hill
5941 and turn them into buzzard bait, and that is what happens. I
5942 yield back.

5943 Mr. Goodlatte. Mr. Chairman?

5944 Mr. Scott. The gentleman's time is expired.

5945 Mr. King. To speak on the amendment? I thank the
5946 chairman. Mr. Chairman, I support this amendment. The
5947 chairman noted earlier that assurances have been received by
5948 somebody that from horse rescue organizations that they could
5949 take care of these horses.

5950 I would again cite the coverage that has been provided
5951 to this by major national publications, but I would also
5952 point this out. The last study that the agriculture
5953 committee, which has spent a tremendous amount of time on
5954 this issue showed that all of the horse rescue organizations
5955 in the country combined, had a capacity of handling 7,000
5956 horses.

5957 Now most of these are very small operations. They
5958 handle five, 10 horses, so that is a lot of organizations,
5959 but still all of them together could handle 7,000 horses.
5960 Now the estimate is that already since the closure of the
5961 three facilities in the United States, there are 100,000
5962 unwanted horses growing at a rate of approximately 100,000 a
5963 year, and we are asking in this legislation for the attorney
5964 general of the United States to take responsibility for the
5965 humane treatment of those horses.

5966 That, I think, is first of all very bad idea in terms of
5967 who ought to be responsible for this. You know the
5968 Department of the Interior and the Department of Agriculture

5969 have responsibility for taking care of horses if they are in
5970 the wild, if they are on BLM land, it's the Department of
5971 Interior. If it is animal welfare issues, it is the
5972 Department of Agriculture, which is an organization that has
5973 more veterinarians than any other organization in the world,
5974 to my knowledge.

5975 Why would be allowing the attorney general of the United
5976 States to set up a whole new operation to take care of
5977 hundreds of thousands of horses that simply cannot be handled
5978 by all the volunteer organizations that do a fine job, a
5979 wonderful job, and I think they are very badly needed. We
5980 need a lot more of them, but they couldn't possibly handle
5981 the additional increase in the number of horses that would
5982 come from this legislation.

5983 Secondly, the gentleman indicated that the preponderance
5984 of veterinary organizations said that the captive bolt method
5985 of euthanizing horses that—used by slaughter facilities in
5986 the United States and Canada was not humane, and that that
5987 was the finding of these organizations, but the American
5988 Veterinarian Medical Association—the largest association of
5989 veterinarians in the world—has sanctioned that as a proper
5990 and humane method of euthanizing horses, as has the American
5991 Association of Equine Practitioners, which is the largest
5992 association of horse doctors, if you will, in the world—9,000
5993 plus members who found that to be the case as well.

5994 So I think their main concern, however, isn't the method
5995 of euthanasia, it is what happens to these horses when they
5996 are not euthanized. And that is exactly what is happening
5997 all across the country. This legislation is going to make
5998 that problem worse, not better. I support the gentleman's
5999 amendment, and as well suspected by now, I oppose the bill.

6000 Mr. Scott. The gentleman's time has expired. We have
6001 been notified that there will be votes on the floor very
6002 soon. We obviously have a number of amendments before us
6003 and, therefore, it would be impossible to complete the
6004 markup.

6005 So the chair has advised us that we will reconvene at
6006 some future point, but without objection, the committee
6007 stands adjourned.

6008 [Whereupon, at 4:40 p.m., the committee was adjourned.]

6009