

1 NATIONAL CAPITOL CONTRACTING
2 RPTS AVERETT
3 HJU095000

4 MARKUP OF H.R. 1842;
5 H.R. 1862; H.R. 659
6 Wednesday, April 5, 2017
7 House of Representatives,
8 Committee on the Judiciary,
9 Washington, D.C.

10 The committee met, pursuant to call, at 11:19 a.m., in
11 Room 2141, Rayburn House Office Building, Hon. Bob Goodlatte
12 [chairman of the committee] presiding.

13 Present: Representatives Goodlatte, Sensenbrenner,
14 Smith, Issa, Franks, Gohmert, Jordan, Poe, Chaffetz, Marino,
15 Gowdy, Farenthold, DeSantis, Buck, Ratcliffe, Roby, Gaetz,
16 Johnson of Louisiana, Biggs, Conyers, Nadler, Lofgren,
17 Jackson Lee, Cohen, Johnson of Georgia, Deutch, Cicilline,
18 Swalwell, Lieu, Raskin, Jayapal, and Schneider.

19 Staff Present: Shelley Husband, Staff Director; Branden
20 Ritchie, Deputy Staff Director; Zach Somers,

21 Parliamentarian; Alley Adcock, Clerk; Meg Barr, Counsel,
22 Subcommittee on Crime, Terrorism, Homeland Security and
23 Investigations; Ryan Bathlo, Counsel, Subcommittee on
24 Regulatory Reform, Commercial and Antitrust Law; Danielle
25 Brown, Minority Chief Legislative Counsel and
26 Parliamentarian; Slade Bond, Minority Chief Counsel,
27 Subcommittee on RRCAL; James Park, Minority Chief Counsel,
28 Subcommittee on the Constitution and Civil Justice; Joseph
29 Ehrenkrantz, Minority Professional Staff Member; and
30 Veronica Eligan, Minority Professional Staff Member.

31 Chairman Goodlatte. Good morning. The Judiciary
32 Committee will come to order, and without objection, the
33 chair is authorized to declare a recess at any time.

34 Pursuant to notice, I now call up H.R. 659 for purposes
35 of markup and move that the committee report the bill
36 favorably to the House. The clerk will report the bill.

37 Ms. Adcock. H.R. 659, to amend the Clayton Act and the
38 Federal Trade Commission Act to provide that the Federal
39 Trade Commission shall exercise authority with respect to
40 mergers only under the Clayton Act and only in the same
41 procedural manner as the Attorney General exercises such
42 authority.

43 [The bill follows:]

44 ***** INSERT 1 *****

45 Chairman Goodlatte. Without objection, the bill is
46 considered as read and open for amendment at any time, and I
47 will begin by recognizing myself for an opening statement.

48 In 1914, Congress passed the Federal Trade Commission
49 Act, marking the beginning of a dual antitrust enforcement
50 regime in the United States. Because both the Department of
51 Justice and the Federal Trade Commission enforce our
52 Nation's antitrust laws, companies may, and often do, have
53 different experiences when interacting with one agency
54 relative to the other.

55 One area in which the disparity can be the most
56 striking is in the merger review process. When a company
57 wishes to merge with, or purchase, another company, it must
58 notify both antitrust enforcement agencies of the proposed
59 transaction. The Department of Justice and the Federal
60 Trade Commission then determine which agency will be
61 responsible for reviewing the transaction. As there are no
62 fixed rules for making this determination, it can appear
63 that the decision is made on the basis of a flip of a coin.

64 There are two potential differences that companies can
65 face based on the identity of the antitrust enforcement
66 agency that reviews the company's proposed transaction. The
67 first potential difference arises if the agency seeks to
68 prevent the transaction by pursuing a preliminary injunction
69 in Federal court. There is a disparate legal standard

70 applied to each antitrust enforcement agency when it
71 requests a preliminary injunction.

72 The second potential difference lies in the process
73 available to each antitrust enforcement agency to prevent a
74 transaction from proceeding. The FTC may pursue
75 administrative litigation against a proposed transaction,
76 even after a court denies its preliminary injunction
77 request. In contrast, the Department of Justice cannot
78 pursue administration litigation.

79 There is no justification for these disparities in the
80 merger review processes and standards. Such disparities
81 lead to unnecessary uncertainty based on which agency is
82 reviewing the transaction. The bipartisan Antitrust
83 Modernization Commission recommended that Congress remove
84 the disparities, and the bill before us today, the Standard
85 Merger and Acquisition Reviews Through Equal Rules Act of
86 2017, or the SMARTER Act, does just that.

87 I applaud Mr. Farenthold for reintroducing this
88 important legislation that will enhance the transparency,
89 predictability, and credibility of the antitrust merger
90 review process. Identical legislation was passed by the
91 House last Congress.

92 By enacting the SMARTER Act into law, Congress will
93 assure that companies no longer will be subjected to
94 fundamentally different processes and standards based on the

95 flip of a coin. Notably, the legislation has garnered the
96 support of former and current FTC commissioners, including
97 former Chairman David Clanton, former Commissioner Josh
98 Wright, and Acting Chairman Maureen Ohlhausen. The SMARTER
99 Act is an important step toward achieving this committee's
100 goal of assuring that our Nation's antitrust laws are
101 enforced in a manner that is fair, consistent, and
102 predictable.

103 I urge my colleagues to support this good government
104 bill, and it is now my pleasure to recognize the ranking
105 member of the committee, the gentleman from Michigan, Mr.
106 Conyers, for his opening statement.

107 [The prepared statement of Chairman Goodlatte follows:]

108 ***** COMMITTEE INSERT *****

109 Mr. Conyers. Thank you, Chairman Goodlatte. Members,
110 this is a measure that would require the Federal Trade
111 Commission to use the same merger enforcement procedures as
112 the Justice Department's Antitrust Division for proposed
113 mergers, acquisitions, joint ventures, and other, similar
114 transactions.

115 After going through it, I think it is flawed, and I
116 would like to point out several reasons why I have reached
117 that conclusion. Most importantly, House Resolution 659, by
118 weakening the Commission's independence, undermines
119 Congress's original intent in creating the Federal Trade
120 Commission in the first place. For good reasons that are
121 still relevant today, Congress established the Commission to
122 be an independent administrative agency.

123 Although the Sherman Antitrust Act of 1890 empowered
124 the Justice Department to enforce antitrust laws, Congress
125 determined that more needed to be done to address the wave
126 of mergers and anticompetitive corporate abuses that
127 continued, notwithstanding the enactment of that act.

128 Accordingly, Congress created the Commission in 1914 as
129 an independent body of experts charged with developing
130 antitrust law and policy free from political influence and,
131 particularly, executive branch interference. To this end,
132 Congress specifically gave the Commission broad
133 administrative powers to investigate and enforce laws to

134 stop unfair methods of competition, as well as the authority
135 to use an administrative adjudication process to develop
136 policy expertise rather than requiring the Commission to try
137 cases before a generalist Federal judge.

138 Yet rather than strengthening the Commission's
139 independence and enforcement authority, the SMARTER Act does
140 the opposite. Of greatest concern is the bill's elimination
141 of the administrative adjudication process for merger cases
142 under section 5(b) of the Federal Trade Commission Act. By
143 doing so, the SMARTER Act would effectively transform the
144 Commission from an independent administrative agency into
145 just another competition enforcement agency,
146 indistinguishable from the Justice Department and, thereby,
147 arguably, redundant. Yet the Commission's administrative
148 authority is key to its distinctive role as an independent
149 administrative agency.

150 By eliminating the Commission's administrative
151 authority, opens the door for ultimate elimination of the
152 Commission itself, and you do not just have to take my word
153 for it. Former Republican Commission Chairman William
154 Kovacic, while expressing support for the bill's
155 harmonization of preliminary injunction standards, says
156 that, "The rest of the SMARTER Act is rubbish."

157 He continued, "Let me put it this way: behind the rest
158 of the SMARTER Act is the fundamental question of whether

159 you want the Federal Trade Commission involved in
160 competition law."

161 Similarly, former Democratic Commission Chairman Edith
162 Ramirez observed that the bill would have, "Far-reaching,
163 immediate effects and fundamentally alter the nature and
164 function of the Commission as well as the potential for
165 significant, unintended consequences." Consumers Union also
166 opposes the SMARTER Act because it is completely
167 unnecessary, and could create unintended hurdles to
168 effective and sound enforcement, and set precedent for
169 further tinkering, both of which risk undermining what is
170 now a coherent, consistent, well-established, familiar
171 enforcement procedure within the Commission.

172 Finally, the SMARTER Act is problematic because it may
173 apply to conduct well beyond larger mergers, which could
174 further hinder the Commission's effectiveness. In
175 particular, the SMARTER Act would eliminate the Commission's
176 authority to use administrative adjudications, not just for
177 the largest mergers, but for any proposed merger. It also
178 removes such authority to review non-merger activities like
179 a joint venture or a similar transaction.

180 So in the end, the SMARTER Act is not smarter at all.
181 For these reasons, I urge my colleagues to reject H.R. 659,
182 and I would like unanimous consent to submit two letters for
183 the record from the Consumers Union, Mr. Slover, in

184 opposition to this measure, and another letter from the
185 American Antitrust Institute, a letter from the president
186 and the general counsel.

187 [The prepared statement of Mr. Conyers follows:]

188 ***** COMMITTEE INSERT *****

189 Chairman Goodlatte. Without objection, they will be
190 made a part of the record.

191 [The information follows:]

192 ***** COMMITTEE INSERT *****

193 Mr. Conyers. Thank you.

194 Chairman Goodlatte. Thank you, Mr. Conyers. I now
195 want to recognize the sponsor of the bill, the gentleman
196 from Texas, Mr. Farenthold, for his opening statement.

197 Mr. Farenthold. Thank you very much, Chairman
198 Goodlatte. Both the DOJ and FTC share jurisdiction to
199 review proposed mergers to make sure they are in compliance
200 with our antitrust laws. Although both agencies use the
201 same substantive antitrust law in the review process, the
202 procedures available to challenge a merger are very, very
203 different.

204 This can create an unequal burden on the parties and
205 can, possibly, even lead to different outcomes. We should
206 standardize this process to ensure fairness, regardless of
207 whether a claim is reviewed by the DOJ or the FTC. That is
208 why I introduced H.R. 659, the Standard Merger and
209 Acquisition Reviews Through Equal Rules Act, also known as
210 the SMARTER Act.

211 This bill, with bipartisan support, makes a couple of
212 changes to the process by which the FTC litigates mergers.
213 First, it requires the FTC to satisfy the same standards as
214 the DOJ in order to obtain a preliminary injunction to block
215 a merger. Additionally, it requires the FTC to always
216 litigate contested merger cases in Federal courts under the
217 Clayton Act, just like the DOJ does, rather than its own

218 administrative law tribunals.

219 Companies and people have been adversely affected by
220 the FTC having its own internal, administrative process to
221 challenge a transaction. It is time to level the playing
222 field and not leave it up to a coin toss of which agency
223 reviews a merger as to which procedures apply.

224 I urge my colleagues to support the SMARTER Act and
225 yield back.

226 [The prepared statement of Mr. Farenthold follows:]

227 ***** COMMITTEE INSERT *****

228 Chairman Goodlatte. Without objection.

229 Mr. Farenthold. Thank you. I yield.

230 Chairman Goodlatte. The chair now recognizes the
231 gentleman from Rhode Island, the ranking member of the
232 Subcommittee on Regulatory Reform, Commercial, and Antitrust
233 Law, Mr. Cicilline, for his statement.

234 Mr. Cicilline. Thank you, Mr. Chairman. Mr. Chairman,
235 I oppose H.R. 659, the Standard Merger and Acquisition
236 Reviews Through Equal Rules, the SMARTER Act, because it
237 dismantles the Federal Trade Commission's ability to promote
238 competition and prevent economic concentration.

239 Over a century ago, Congress established the Federal
240 Trade Commission with the express purpose of safeguarding
241 consumers against anticompetitive behavior through its
242 authority to enforce, clarify, and develop the antitrust
243 laws. Today, the FTC prevents anticompetitive mergers and
244 promotes competition in highly-concentrated markets through
245 administrative litigation. Under this authority, it may
246 seek permanent injunctions in its own administrative court,
247 in addition to its ability to seek preliminary injunctions
248 in Federal district court.

249 Both Republican and Democratic chairs of the FTC agree
250 that administrative litigation is an extremely valuable
251 tool. Maureen Ohlhausen, who was recently appointed acting
252 chair of the FTC by President Trump, strongly supports the

253 use of administrative litigation as a unique asset in
254 enforcing our antitrust laws, particularly in healthcare
255 markets and the pharmaceutical industry.

256 Bill Kovacic, the Republican FTC chair under the George
257 W. Bush administration, agrees, noting that administrative
258 litigation has resulted in key victories for the FTC by,
259 "Building analytical templates, whose persuasiveness compel
260 emulation by Federal judges." Edith Ramirez, who was
261 appointed chair of the FTC by President Obama, noted that
262 this quasi-judicial role is a defining characteristic of the
263 agency, and that the current system has worked well for over
264 100 years, and all indications are that it will continue to
265 do so to the benefit of competition and consumers.

266 H.R. 659 would upend this progress by amending the
267 Clayton Act to prohibit the use of administrative litigation
268 for both proposed and consummated transactions exceeding \$80
269 million. There is simply no evidence that this bill is
270 warranted. While the proponents of the SMARTER Act argue
271 that the outcome of a transaction is just determined by a
272 coin flip between the agencies to determine which will
273 review a transaction, there is a dearth of factual support
274 to disclaim.

275 Jonathan Jacobson, a leading antitrust attorney, who
276 served on the Antitrust Modernization Commission, testified
277 that, in his 39 years of practice, the outcome of a merger

278 has never turned on the differences that the SMARTER Act
279 seeks to address in antitrust law. The American Antitrust
280 Institute, a consumer-oriented antitrust organization,
281 conducted a lengthy study of workload statistics, compiled
282 by both antitrust agencies, and found that the concern of
283 the bill's sponsors are without foundation.

284 And finally, in the most comprehensive study of
285 administrative litigation to date, FTC Acting Chairwoman
286 Maureen Ohlhausen debunked procedural concerns with
287 administrative litigation as mostly anecdotal or
288 theoretical. In fact, less than 2 percent of mergers are
289 even stopped or modified, and an even smaller percentage of
290 these cases go to trial following administrative litigation.

291 The FTC also has a pristine record when using this
292 authority. It has won six out of its seven cases before the
293 Supreme Court, and five of these were brought through
294 administrative litigation. I am, therefore, not persuaded
295 by the need to fundamentally change the antitrust laws based
296 solely on due process concerns that are mostly anecdotal or
297 theoretical that would apply to just one percent of mergers,
298 which happen to be some of the largest and most
299 consequential.

300 Mr. Chairman, we are witnessing a period of historic
301 merger activity. There is mounting economic evidence that
302 consolidation in nearly every sector of the economy is

303 increasing consumers' costs, depressing workers' wages, and
304 eroding private sector investment and innovation.

305 Yesterday, together with Ranking Member Conyers, I
306 requested a 20 percent increase in funding for the antitrust
307 agencies to reverse this trend through vigorous antitrust
308 enforcement, a key tool for lowering costs and increasing
309 economic opportunity for hardworking Americans. It is
310 irrefutably true that we need more competition, not less.
311 And instead of giving handouts to the largest and most
312 concentrated businesses on the basis of speculative harms,
313 we should invest in the antitrust agencies' ability to
314 enforce the law.

315 And for all these reasons, I oppose H.R. 659 and urge
316 my colleagues to do the same and yield back the balance of
317 my time.

318 Chairman Goodlatte. The chair thanks the gentleman.
319 Are there any amendments to H.R. 659?

320 For what purpose does the gentleman from New York seek
321 recognition?

322 Mr. Nadler. Strike the last word.

323 Chairman Goodlatte. The gentleman is recognized for 5
324 minutes.

325 Mr. Nadler. I am going to speak very briefly. I just
326 want to say that it has been my opinion that every
327 administration since the Reagan administration, including

328 Democratic and Republican administrations, has not
329 adequately enforced their antitrust laws. Our corporations
330 have gotten much too big. It is not simply a question of
331 consumer prices. When you only have one or two or three
332 corporations dominating a field, that eliminates competition
333 and makes it harder for other companies to get in.

334 I commend Mr. Cicilline's explication of his reasons
335 for opposing this bill, and this bill is another step in the
336 wrong direction of allowing the takeover of the economy,
337 essentially, by a very small number of firms. When you look
338 at sector after sector, we have an oligopoly, and frankly,
339 we ought to go back to the Teddy Roosevelt days of
340 trustbusting instead of continuing the days, and now
341 enhancing the days, of making more and more and larger
342 trusts and fewer companies in every field.

343 It is the wrong way to go, in general, and this bill is
344 the wrong way to go. I oppose the bill. I yield back.

345 Chairman Goodlatte. Would the gentleman yield?

346 Mr. Nadler. Sure.

347 Chairman Goodlatte. I thank the gentleman for
348 yielding. I share the gentleman's concern about antitrust
349 enforcement, and quite frankly, we have not seen it in
350 administrations of both parties.

351 Mr. Nadler. As I just said.

352 Chairman Goodlatte. And I think that it would be wise

353 to have a system where it does not become a crapshoot, what
354 turns out, but that the process for determining whether or
355 not an antitrust merger takes place is consistent. You will
356 then have the ability to have better standardization of the
357 process under which it will take place, or it will not take
358 place, and you will see less of these efforts if they are
359 shot down more times.

360 So this is only about making the law consistent as we
361 move forward in creating predictability, which I think is a
362 very important part of our --

363 Mr. Nadler. Reclaiming my time. Consistency is a very
364 valuable quality, but I think this bill goes toward
365 consistency in the wrong direction, and I reiterate my
366 opposition. I yield back.

367 Chairman Goodlatte. Are there amendments to H.R. 659?

368 A reporting quorum being present, the question is on
369 the motion to report the bill H.R. 659 favorably to the
370 House.

371 Those in favor will say aye.

372 Those opposed, no.

373 In the opinion of the chair, the ayes have it, and the
374 bill is ordered reported --

375 Mr. Conyers. Could I have a roll call vote, sir?

376 Chairman Goodlatte. A recorded vote is requested, and
377 the clerk will call the roll.

378 Ms. Adcock. Mr. Goodlatte?
379 Chairman Goodlatte. Aye.
380 Ms. Adcock. Mr. Goodlatte votes aye.
381 Mr. Sensenbrenner?
382 [No response.]
383 Mr. Smith?
384 Mr. Smith. Aye.
385 Ms. Adcock. Mr. Smith votes aye.
386 Mr. Chabot?
387 [No response.]
388 Mr. Issa?
389 [No response.]
390 Mr. King?
391 Mr. King. Aye.
392 Ms. Adcock. Mr. King votes aye.
393 Mr. Franks?
394 [No response.]
395 Mr. Gohmert?
396 [No response.]
397 Mr. Jordan?
398 Mr. Jordan. Yes.
399 Ms. Adcock. Mr. Jordan votes yes.
400 Mr. Poe?
401 [No response.]
402 Mr. Chaffetz?

403 [No response.]
404 Mr. Marino?
405 Mr. Marino. Yes.
406 Ms. Adcock. Mr. Marino votes yes.
407 Mr. Gowdy?
408 [No response.]
409 Mr. Labrador?
410 [No response.]
411 Mr. Farenthold?
412 Mr. Farenthold. Aye.
413 Ms. Adcock. Mr. Farenthold votes aye.
414 Mr. Collins?
415 [No response.]
416 Mr. DeSantis?
417 Mr. DeSantis. Aye.
418 Ms. Adcock. Mr. DeSantis votes aye.
419 Mr. Buck?
420 Mr. Buck. Aye.
421 Ms. Adcock. Mr. Buck votes aye.
422 Mr. Ratcliffe?
423 Mr. Ratcliffe. Yes.
424 Ms. Adcock. Mr. Ratcliffe votes yes.
425 Mrs. Roby?
426 [No response.]
427 Mr. Gaetz?

428 Mr. Gaetz. Aye.

429 Ms. Adcock. Mr. Gaetz votes aye.

430 Mr. Johnson of Louisiana?

431 [No response.]

432 Mr. Biggs?

433 Mr. Biggs. Aye.

434 Ms. Adcock. Mr. Biggs votes aye.

435 Mr. Conyers?

436 Mr. Conyers. No.

437 Ms. Adcock. Mr. Conyers votes no.

438 Mr. Nadler?

439 Mr. Nadler. No.

440 Ms. Adcock. Mr. Nadler votes no.

441 Ms. Lofgren?

442 Ms. Lofgren. No.

443 Ms. Adcock. Ms. Lofgren votes no.

444 Ms. Jackson Lee?

445 [No response.]

446 Mr. Cohen?

447 Mr. Cohen. No.

448 Ms. Adcock. Mr. Cohen votes no.

449 Mr. Johnson of Georgia?

450 [No response.]

451 Mr. Deutch?

452 Mr. Deutch. No.

453 Ms. Adcock. Mr. Deutch votes no.
454 Mr. Gutierrez?
455 [No response.]
456 Ms. Bass?
457 [No response.]
458 Mr. Richmond?
459 [No response.]
460 Mr. Jeffries?
461 [No response.]
462 Mr. Cicilline?
463 Mr. Cicilline. No.
464 Ms. Adcock. Mr. Cicilline votes no.
465 Mr. Swalwell?
466 [No response.]
467 Mr. Lieu?
468 Mr. Lieu. No.
469 Ms. Adcock. Mr. Lieu votes no.
470 Mr. Raskin?
471 Mr. Raskin. No.
472 Ms. Adcock. Mr. Raskin votes no.
473 Ms. Jayapal?
474 Ms. Jayapal. No.
475 Ms. Adcock. Ms. Jayapal votes no.
476 Mr. Schneider?
477 Mr. Schneider. No.

478 Ms. Adcock. Mr. Schneider votes no.
479 Mr. Sensenbrenner. Chairman.
480 Chairman Goodlatte. The gentleman from Wisconsin?
481 Mr. Sensenbrenner. Aye.
482 Ms. Adcock. Mr. Sensenbrenner votes aye.
483 Chairman Goodlatte. The gentleman from Texas, Mr. Poe?
484 Mr. Poe. Yes.
485 Ms. Adcock. Mr. Poe votes yes.
486 Chairman Goodlatte. The gentleman from Utah, Mr.
487 Chaffetz?
488 Mr. Chaffetz. Aye.
489 Ms. Adcock. Mr. Chaffetz votes aye.
490 Chairman Goodlatte. The gentleman from California, Mr.
491 Issa?
492 Mr. Issa. Aye.
493 Ms. Adcock. Mr. Issa votes aye.
494 Chairman Goodlatte. The gentlewoman from Alabama, Mrs.
495 Roby?
496 Mrs. Roby. Aye.
497 Ms. Adcock. Mrs. Roby votes aye.
498 Chairman Goodlatte. Has every member voted who wishes
499 to vote?
500 The clerk will report.
501 Ms. Adcock. Mr. Chairman, 16 members voted aye; 10
502 members voted no.

503 Chairman Goodlatte. The ayes have it, and the bill is
504 ordered reported favorably to the House. Members will have
505 2 days to submit views.

506 Pursuant to notice, I now call up H.R. 1842 for
507 purposes of markup and move that the committee report the
508 bill favorably to the House. The clerk will report the
509 bill.

510 Ms. Adcock. H.R. 1842, to amend title 18, United
511 States Code, to include State crimes of violence as grounds
512 for an enhanced penalty when sex offenders fail to register
513 or report certain information, as required by our Federal
514 law, to include prior military offenses, for purposes of
515 recidivist sentencing provisions and for other purposes.

516 [The bill follows:]

517 ***** INSERT 2 *****

518 Chairman Goodlatte. Without objection, the bill is
519 considered as read and open for amendment at any point, and
520 I will begin by recognizing myself for an opening statement.

521 This legislation, introduced by our colleague, Mr.
522 Ratcliffe, a former United States Attorney, strengthens
523 child safety by closing two major loopholes in Federal law.
524 This bill ensures that all offenders who have been convicted
525 of crimes of violence face heightened punishment when they
526 fail to register as a sex offender for a sex offense.

527 This enhancement provides incentive for the most
528 dangerous of offenders to update their verifications,
529 assuring they do not go off the grid and reoffend.
530 Currently, this enhancement applies only to those who
531 committed crimes of violence under Federal, tribal, D.C., or
532 military law, and the law of any territory or possession of
533 the United States. But inexplicably, it excludes State
534 offenses from the calculation. This bill adds State crimes
535 of violence as a predicate conviction, which addresses a
536 loophole in the law.

537 Second, the bill ensures that enhancement for sex
538 offenses are applied equitably throughout the United States
539 code. These offenses happen in every State, every county,
540 and, sadly, every neighborhood. They are ubiquitous, and
541 while our military is, overall, filled with honorable and
542 courageous men and women, on occasion, there are members who

543 do not act honorably and are convicted of sex offenses under
544 the Uniform Code of Military Justice.

545 Currently, the recidivist provisions are not consistent
546 with respect to conduct covered when someone has a prior sex
547 conviction under Federal and State law, as opposed to
548 military law. For instance, under current law, an offender
549 with certain prior military child pornography convictions
550 would not qualify for an enhancement that someone convicted
551 under a Federal statute would, even if their conduct was the
552 same. The Ratcliffe bill addresses that inconsistency.

553 I want to stress to my colleagues that this bill, like
554 the others we will consider today, does not create or
555 increase any mandatory minimum sentence. What it does is
556 ensure that the sentences on the books, which apply to some
557 of the most horrific crimes against children, do not contain
558 loopholes which can be exploited by those who prey upon
559 children. We must make sure laws apply equally and
560 recidivists are punished appropriately. I commend Mr.
561 Ratcliffe for his work on this bill and I urge my colleagues
562 to support the legislation. And it is now my pleasure to
563 recognize Mr. Conyers for his opening statement.

564 [The prepared statement of Chairman Goodlatte follows:]

565 ***** COMMITTEE INSERT *****

566 Mr. Conyers. Thank you, Mr. Chairman. Members of the
567 Judiciary Committee, H.R. 1842, the Strengthening Children's
568 Safety Act, is a commendable bill intended to address gaps
569 in our child protection laws. While I do not object to the
570 revisions to the Criminal Code that the bill would make, I
571 cannot support the resulting expansion of mandatory minimum
572 sentencing. H.R. 1482 amends section 2550(d) of the
573 Criminal Code, which provides for an enhanced penalty for
574 sex offenders who commit a crime of violence while in
575 noncompliance of sex offender registration and reporting
576 requirement.

577 In addition to the Federal crimes of violence already
578 included in that statute, this bill would add State crimes
579 of violence as predicate offenses that in turn would require
580 the imposition of a mandatory 5-year prison sentence to be
581 served consecutively to any sentence imposed for failing to
582 register or comply with sex offender registration and
583 reporting requirements.

584 H.R. 1842 would also add prior military child sex
585 offenses to several recidivist sentencing provisions, most
586 of which carry mandatory minimum penalties of at least 15
587 years or life. Perhaps we should expand coverage of
588 enhanced sentencing for the offenses added by the bill, but
589 we should do so without expanding mandatory minimums.
590 Judges, not Congress, are in the best position to impose

591 sentences for even the most offensive criminal violations
592 because they know the facts and circumstances of each case.
593 With lengthy maximum sentences available for any offense
594 added by this bill, we do not need to impose minimums.

595 So, accordingly, my colleagues, I intend to offer an
596 amendment to exempt these additions to the imposition of
597 mandatory minimum sentences, while retaining the option for
598 judges to sentence up to the lengthy maximum sentences as
599 allowed under current statutes. With those changes, I would
600 support the bill. And I thank the chairman.

601 [The prepared statement of Mr. Conyers follows:]

602 ***** COMMITTEE INSERT *****

603 Chairman Goodlatte. The chair thanks the gentleman.
604 It is now my pleasure to recognize the sponsor of the bill,
605 the gentleman from Texas, Mr. Ratcliffe, for his opening
606 statement.

607 Mr. Ratcliffe. Thank you, Mr. Chairman. There are few
608 things that are more shocking to the conscience and more
609 sickening to the soul than crimes against children, the most
610 innocent and the most vulnerable members of our society. In
611 my time as a Federal prosecutor, the child exploitation
612 images that I was forced to review were by far the most
613 disturbing and difficult part of that job.

614 All these years later, I still cannot erase those
615 depraved images from my mind, and I doubt that I will ever
616 be able to do so. But you know, crimes against children
617 should stick with us, they should haunt us, and then they
618 should spur us to take action. If we do anything here in
619 Congress, it should be to work to protect children. We talk
620 all day long about the future of this country. Well, our
621 children are that future, and now we need to put words into
622 action.

623 So today, I am introducing the Strengthening Children's
624 Safety Act of 2017, a bill which closes two sets of
625 loopholes in Federal child exploitation laws, to make sure
626 that all dangerous sex offenders are treated the same and
627 are subject to the same enhanced penalties under the law.

628 Right now, current law establishes minimum national
629 standards for sex offender registration and notification in
630 all 50 States, and the District of Columbia, and U.S.
631 territories, and tribes.

632 And if a sex offender knowingly fails to register or
633 update a registration, that individual faces a fine and
634 imprisonment of up to 10 years. There is also an enhanced
635 penalty of 5 to 30 years' imprisonment if the offender,
636 while in noncompliant status, also commits a crime of
637 violence under Federal law, under the Uniform Code of
638 Military Justice, the law of the District of Columbia,
639 Indian Tribal law, or any territory or possession of the
640 United States.

641 But here is the problem. Right now, only individuals
642 committing crimes of violence under these Federal, or
643 district, or territorial, or military, or Tribal laws are
644 subject to the enhanced penalties, while individuals
645 committing the same crimes of violence under State law are
646 not.

647 Child predators committing crimes of violence should be
648 subject to the same enhanced penalties, regardless of
649 whether these same crimes are going to be charged federally
650 or at the State level. We cannot allow offenders to dodge
651 punishment on a technicality. So, my bill adds similar
652 State crimes of violence to the list.

653 The change will ensure that the enhanced penalty
654 applies equally to all dangerous offenders.

655 Similarly, the second portion of the bill addresses
656 enhanced sentences for individuals with prior sex offenses.
657 Our child exploitation laws consistently call for higher
658 sentences when a defendant has a prior conviction for
659 Federal or State sex offense. But these sentencing
660 provisions do not include all similar sex offense
661 convictions that arise under the Uniform Code of Military
662 Justice. My bill amends those Federal child exploitation
663 laws to include all child sexual exploitation offenses under
664 the UCMJ in the recidivist provisions, as appropriate.

665 Again, I think it is critical that we close this
666 loophole to ensure that all prior child sex exploitation
667 convictions are penalized for repeat offenders. Many issues
668 here in Congress these days are partisan. It is my hope
669 that members on both sides of the aisle will be able to come
670 together to support stronger protections for our children.
671 So, I urge all my colleagues to support the bill and I yield
672 back the balance of my time.

673 [The prepared statement of Mr. Ratcliffe follows:]

674 ***** COMMITTEE INSERT *****

675 Mr. Sensenbrenner. [presiding] Without objection, all
676 members' opening statements will be put in the record at
677 this point.

678 [The information follows:]

679 ***** COMMITTEE INSERT *****

680 Mr. Sensenbrenner. Are there any amendments?

681 Mr. Nadler. Mr. Chairman.

682 Mr. Sensenbrenner. For what purpose does the gentleman
683 from New York seek recognition?

684 Mr. Nadler. Strike the last word.

685 Mr. Sensenbrenner. The gentleman is recognized for 5
686 minutes.

687 Mr. Nadler. Thank you. Mr. Chairman, this bill, as
688 well as the next two, have very laudable purposes, and in
689 general, do good things and improve the law. There are two
690 problems with these bills, all three of them.

691 One, they all subject new classes of people to
692 mandatory minimum sentences including, in this case, to
693 mandatory sentences of life imprisonment. Now, for those of
694 us who are very much opposed to mandatory sentencing, who
695 think that it is a real problem that often enough leads to
696 injustices -- we have read stories of judges imposing harsh
697 sentences on somebody and saying from the bench that because
698 of the unique circumstances of that case, it is grossly
699 unfair to impose such a harsh sentence -- although in
700 general, it might be, but in that case, it is not -- it is
701 grossly unfair because of the circumstances of the case.
702 "Nonetheless, I as the judge have no choice. I must impose
703 this very harsh sentence."

704 That makes no sense. Mandatory sentences remove

705 discretion from judges and give us -- as if we have all the
706 wisdom and we can foresee every circumstance. And since
707 this bill and the other two impose -- they do not impose the
708 mandatory minimums; what they do is subject new classes of
709 people to mandatory minimums -- I have to oppose them.

710 The second problem with these three bills -- and the
711 Democratic memo has identical language in each of them -- it
712 says, "The committee has held no hearings on this measure,
713 and it has not been introduced previously."

714 These are bills which look like mom and apple pie, are
715 certainly well-intended, may very well be very good, except
716 for the mandatory minimums -- but nonetheless, are major
717 changes in the criminal law, and we should not enact such
718 bills without having hearings.

719 Now, the chairman of the committee, in response, I
720 think, to Mr. Raskin, on a previous occasion, said, "Well,
721 we held a hearing in 2013 on this bill" or "We held a
722 hearing in 2014." But the fact is, on these bills -- these
723 are brand new bills -- we have never held hearings. We
724 should hold a hearing. Maybe we will find out some flaw
725 that I do not anticipate or that no one anticipates. Maybe
726 we will find out the bill should be changed in some way.
727 Maybe we will find out it is wonderful.

728 But the idea of hearings in which you call in criminal
729 justice experts, sex offense experts, is the way we are

730 supposed to do business. So, the fact that these rather
731 serious bills imposing very lengthy mandatory minimum
732 sentences under certain circumstances have never been
733 introduced before, never been considered before, and have
734 held no hearings, is the reason to vote no now --

735 Mr. Sensenbrenner. Will the gentleman yield?

736 Mr. Nadler. -- but I hope that they -- in one second.

737 But I hope -- I would urge that -- I know it is not going to
738 happen, but the proper course of action would be to take
739 these bills off the agenda, hold a hearing, and put them
740 back on with perhaps amendments, if the sponsor thinks that
741 there ought to be amendments that he learned of from the
742 hearing.

743 I will yield.

744 Mr. Sensenbrenner. I am informed by staff that there
745 was a hearing at the subcommittee level on March 16th on
746 child protection issues in general, which would --

747 Mr. Nadler. In general, but not on these bills.

748 Mr. Sensenbrenner. Not on the bills, but on this
749 issue.

750 Mr. Nadler. Reclaiming my time. Hearings on a general
751 topic are good. But when you have a bill, you have to have
752 a hearing on the bill to see if that bill in fact does what
753 it is intended to do, in fact deals with the problem that
754 was elucidated at the general hearing. That is why we have

755 hearings on bills. We have hearings on general topics too,
756 but they do not substitute for a hearing on the bill.

757 The hearing on the bill says does a bill do what it is
758 intended to do, does it have good effects, does it have bad
759 effects, do the good effects outweigh the bad effects, does
760 it have unanticipated consequences because of the way it was
761 drafted, should there be amendments. That is what a hearing
762 on a bill does. A hearing on a general topic does not do
763 that.

764 And when you have a serious bill -- and this is a
765 serious bill, and so are the other two -- which impose real
766 consequences on real people, and impose mandatory minimums,
767 and make -- and even without the mandatory minimums, if they
768 were amended, they would impose longer sentences -- perhaps
769 justifiably. Probably justifiably.

770 We should have hearings, and that is the proper way to
771 do it. I mean, we have passed legislation in previous years
772 imposing sentences on criminals, and then we have had to
773 come back years later and say, "Gee, that was a terrible
774 mistake." We ought to have a hearing so we do not make
775 terrible mistakes, even without knowing about it.

776 So, I would have to oppose it for that reason too, and
777 I yield back.

778 Mr. Sensenbrenner. The time of the gentleman has
779 expired. Are there any amendments --

780 Mr. Conyers. Mr. Chairman?

781 Mr. Sensenbrenner. For what purpose does the gentleman
782 from Michigan seek recognition?

783 Mr. Conyers. I have an amendment at the desk.

784 Mr. Sensenbrenner. The clerk will report the
785 amendment. There is no amendment at the desk. The
786 gentleman from Michigan? The amendment has arrived. The
787 clerk will report the amendment.

788 Ms. Adcock. Amendment to H.R. 1842, offered by Mr.
789 Conyers --

790 [The amendment of Mr. Conyers follows:]

791 ***** COMMITTEE INSERT *****

792 Mr. Sensenbrenner. Without objection, the amendment is
793 considered as read, and the gentleman from Michigan is
794 recognized for 5 minutes.

795 Mr. Conyers. Thank you, Mr. Chairman. My amendment
796 addresses mandatory minimum concerns that have been raised
797 by the several changes in current law made by this bill.
798 First, my amendment would address the bill's change to the
799 penalties for sex offenders who failed to register and who
800 commit a crime of violence.

801 The bill would add "Those offenders who commit a crime
802 of violence under State law through the statute," which
803 currently covers Federal, D.C., Tribal, and territorial
804 crimes of violence.

805 The current penalty for this violation is imprisonment
806 for at least 5 years and up to 30 years. My amendment would
807 eliminate the 5-year minimum, but still allow for the up to
808 30 years' imprisonment portion. As an opponent of mandatory
809 minimum sentencing, I believe sincerely that we should not
810 only decline to adopt new mandatory minimums, but Congress
811 should also avoid expanding existing mandatory penalties,
812 and we can do so in a way that still allows for strong and
813 severe penalties up to lengthy maximum terms if judges in
814 particular cases determine that the facts call for them.

815 The bill also changes the Code in several sections by
816 providing recidivist penalties for sexual exploitation of

817 children by adding offenses under the Uniform Code of
818 Military Justice as predicates, in addition to Federal and
819 State offenses. These recidivist penalties are mandatory
820 minimums which carry mandatory minimums of at least 15
821 years, and for some, life in prison. So, my amendment would
822 address this by providing that these military offenses, as
823 added to these sections, be subject to the same maximum
824 penalties under the various code sections, but not subject
825 to the mandatory minimums.

826 Of course, I believe we should go into all sections of
827 the code and remove mandatory minimums. But if we are going
828 to change the statute to include more offenses and statutes
829 that have mandatory minimums, we can provide additional
830 appropriate punishment while exempting these additions to
831 unwise mandatory minimums. As a result, judges could still
832 impose sentences that are equally lengthy and severe, but we
833 would know that they are the result of the judge's
834 consideration of the facts and circumstances of each case.

835 That is the principle underlying of all the changes I
836 propose in my amendment, and I plead with my colleagues to
837 give this careful consideration and support this amendment
838 to improve the bill. Thank you, Mr. Chairman.

839 Mr. Sensenbrenner. The time of the gentleman has
840 expired. For what purpose does the gentleman from Texas
841 seek recognition?

842 Mr. Ratcliffe. I claim time in opposition to the
843 amendment.

844 Mr. Sensenbrenner. The gentleman is recognized for 5
845 minutes.

846 Mr. Ratcliffe. Thank you, Mr. Chairman. I appreciate
847 the gentleman from Michigan and the spirit with which he has
848 offered this amendment, but his amendment, as written,
849 actually rolls back current law. With all due respect, the
850 gentleman appears to want to debate the mandatory minimum
851 sentencing system and its existence in American
852 jurisprudence.

853 Again, the underlying bill here does not create
854 mandatory minimums. It does not expand mandatory minimums.
855 It does not change mandatory minimums in any way; unlike the
856 amendment, which seeks to do just that. Again, the
857 underlying bill is about closing loopholes for equal
858 treatment under the law, to make sure that enhancements that
859 currently exist apply evenly and equitably. The gentleman's
860 amendment actually does just the opposite.

861 Again, respectfully, if someone commits one of these
862 crimes, the most horrific of crimes, in Springfield,
863 Virginia, they should be treated exactly the same as someone
864 committing that crime in Springfield, Illinois, and that is
865 essentially what the underlying bill does and what the
866 gentleman's amendment seeks to prevent.

867 So, again, I respectfully ask my colleagues to oppose
868 the amendment, and yield back.

869 Mr. Sensenbrenner. The gentleman's time has expired.

870 Mr. Nadler. Mr. Chairman?

871 Mr. Sensenbrenner. For what purpose does the gentleman
872 from New York seek recognition?

873 Mr. Nadler. Strike the last word.

874 Mr. Sensenbrenner. The gentleman is recognized for 5
875 minutes.

876 Mr. Nadler. Well, I just want to make two
877 observations. One, the bill, as I said before, does not
878 impose new mandatory minimums, but it adds classes of
879 people, and therefore many people, to those subject to
880 mandatory minimums, and that is what the gentleman's
881 amendment seeks to change.

882 And number two, I just want to make one other
883 observation. This bill says that it should be a predicate
884 for all these enhanced penalties, et cetera, that you have
885 committed similar State crimes as well as Federal crimes,
886 which is logical. But the problem with that -- possible
887 problem -- which hearings might elucidate, is that you say,
888 "similar State crimes." But State laws vary, and the law of
889 one State might be similar to but somewhat different than
890 the law of another State in defining the crime, and also
891 different from the Federal crime. So, by saying State

892 crimes, "similar State crimes," it is a question of what you
893 are drawing into.

894 You may be applying the law, these mandatory minimums,
895 to people who committed a State crime who would not be
896 included if that crime had been a Federal crime, or maybe
897 vice versa. And that is what a hearing would get at. And
898 maybe the bill should be amended in some ways to deal with
899 that problem, and maybe that problem is not a real problem.
900 I do not know. There has not been a hearing, but it
901 certainly occurs to me that that might be a problem that is
902 something we ought to take a look at.

903 Mr. Conyers. Would the gentleman yield?

904 Mr. Nadler. Yes, I will.

905 Mr. Conyers. Thank you for your consideration of the
906 supposed problem with the amendment. Members of the
907 committee, this amendment does not change existing law. I
908 want my friend from Texas to be comfortable about that one
909 fact. It only applies to the new offenses, and it does not
910 prevent a judge from sentencing to the maximum. So, I would
911 continue to support this amendment and make everyone
912 comfortable that we are not changing existing law.

913 Mr. Ratcliffe. Would the gentleman yield?

914 Mr. Conyers. Of course.

915 Mr. Ratcliffe. Again --

916 Mr. Sensenbrenner. The time belongs to the gentleman

917 from New York. Does the gentleman from New York yield?

918 Mr. Nadler. Oh, yes.

919 Mr. Ratcliffe. Thank you. Again, respectfully, the
920 amendment does roll back current law as it applies to the
921 military provision. And to the gentleman from New York's
922 point, he seems to be conceding that the bill does not
923 expand or create mandatory minimums. So at best, the
924 gentleman seems to be arguing that this bill expands -- or
925 to use your word, exposes -- new classes of people to
926 mandatory minimum sentences. And I guess this is just where
927 philosophical differences -- I do not know that we can
928 bridge these gaps.

929 Mr. Nadler. Well --

930 Mr. Ratcliffe. I cannot speak for --

931 Mr. Nadler. Reclaiming my time, I did not use the word
932 "expose." But it expands mandatory minimum sentences to new
933 classes of people, people who are not now subject to
934 mandatory minimums. If you oppose mandatory minimums, as I
935 do, I am opposed to the expansion to new class of people as
936 well as -- I do not know what you mean by "increasing the
937 mandatory minimum," but yeah, you could -- from 5 to 10
938 years of whatever.

939 See, I think mandatory minimums lead to great
940 injustices; on occasion, lead to a judge saying, "It is
941 terrible that I have to impose this sentence because the

942 specific circumstances in this case -- it is not warranted,
943 but the law leaves me no choice." That is what we want to
944 avoid. And to put a new class of people into that, most of
945 whom may be deserving of the terrible sentences, but some of
946 whom may not be, is wrong. So, that is why I oppose the
947 expansion.

948 But again, I come back to the other point. Putting
949 State crimes in here is a good idea generally, but you have
950 to make sure that you are really dealing with equivalencies.
951 And we do not know that unless you have a hearing and really
952 look at the laws of the States and at the definitions, to
953 make sure you are dealing with equivalents to Federal
954 crimes, because the laws of each State are defined
955 differently, and simply saying "similar to" may subject
956 people who would not be exposed under Federal law, or maybe
957 exempt people who would be. I mean, you have to really look
958 at the laws of the State, and that is why we ought to have a
959 hearing and a proper process for it.

960 Mr. Conyers. Exactly. Would the gentleman yield?

961 Mr. Nadler. Sure.

962 Mr. Conyers. I thank the gentleman for his
963 observation. This amendment does not change existing law.
964 It only applies to the new offenses. And it does not
965 prevent a judge from sentencing to the maximum. Thank you.

966 Mr. Sensenbrenner. The time of the gentleman has

967 expired.

968 Mr. Nadler. I yield back.

969 Mr. Sensenbrenner. For what purpose does the
970 gentlewoman from Alabama seek recognition?

971 Mrs. Roby. I move to strike the last word.

972 Mr. Sensenbrenner. The gentlewoman is recognized for 5
973 minutes.

974 Mrs. Roby. I would like to yield my time to the
975 gentleman from Texas.

976 Mr. Ratcliffe. I just wanted to address the gentleman
977 from New York's -- I very much appreciate the manner in
978 which he delivered his remarks. I do think that we have a
979 philosophical difference. Whether we are talking about
980 exposing or expanding new classes of people to mandatory
981 minimum sentences, I cannot speak for everyone on this
982 committee, but for people committing these types of crimes
983 against child, I am 100 percent in favor of exposing them to
984 mandatory minimum sentences. With that, I yield back.

985 Mrs. Roby. I yield back.

986 Mr. Sensenbrenner. The question is on the amendment
987 offered by the gentleman from Michigan.

988 Those in favor will say aye.

989 Those opposed will say no.

990 The noes appear to have it. The noes have it, and the
991 amendment is not -- a recorded vote is requested. The

992 question is on the amendment by the gentleman from Michigan.
993 Those in favor will vote aye, those opposed will vote no,
994 and the clerk will call the roll.

995 Ms. Adcock. Mr. Goodlatte?

996 Chairman Goodlatte. No.

997 Ms. Adcock. Mr. Goodlatte votes no. Mr.

998 Sensenbrenner?

999 Mr. Sensenbrenner. No.

1000 Ms. Adcock. Mr. Sensenbrenner votes no.

1001 Mr. Smith?

1002 [No response.]

1003 Mr. Chabot?

1004 [No response.]

1005 Mr. Issa?

1006 Mr. Issa. No.

1007 Ms. Adcock. Mr. Issa votes no.

1008 Mr. King?

1009 Mr. King. No.

1010 Ms. Adcock. Mr. King votes no.

1011 Mr. Franks?

1012 Mr. Franks. No.

1013 Ms. Adcock. Mr. Franks votes no.

1014 Mr. Gohmert?

1015 Mr. Gohmert. No.

1016 Ms. Adcock. Mr. Gohmert votes no.

1017 Mr. Jordan?
1018 [No response.]
1019 Mr. Poe?
1020 [No response.]
1021 Mr. Chaffetz?
1022 Mr. Chaffetz. No.
1023 Ms. Adcock. Mr. Chaffetz votes no.
1024 Mr. Marino?
1025 [No response.]
1026 Mr. Gowdy?
1027 Mr. Gowdy. No.
1028 Ms. Adcock. Mr. Gowdy votes no.
1029 Mr. Labrador?
1030 [No response.]
1031 Mr. Farenthold?
1032 [No response.]
1033 Mr. Collins?
1034 [No response.]
1035 Mr. DeSantis?
1036 Mr. DeSantis. No.
1037 Ms. Adcock. Mr. DeSantis votes no.
1038 Mr. Buck?
1039 [No response.]
1040 Mr. Ratcliffe?
1041 Mr. Ratcliffe. No.

1042 Ms. Adcock. Mr. Ratcliffe votes no.
1043 Mrs. Roby?
1044 Mrs. Roby. No.
1045 Ms. Adcock. Mrs. Roby votes no.
1046 Mr. Gaetz?
1047 Mr. Gaetz. No.
1048 Ms. Adcock. Mr. Gaetz votes no.
1049 Mr. Johnson of Louisiana?
1050 Mr. Johnson of Louisiana. No.
1051 Ms. Adcock. Mr. Johnson votes no.
1052 Mr. Biggs?
1053 Mr. Biggs. No.
1054 Ms. Adcock. Mr. Biggs votes no.
1055 Mr. Conyers?
1056 Mr. Conyers. Aye.
1057 Ms. Adcock. Mr. Conyers votes aye.
1058 Mr. Nadler?
1059 Mr. Nadler. Aye.
1060 Ms. Adcock. Mr. Nadler votes aye.
1061 Ms. Lofgren?
1062 [No response.]
1063 Ms. Jackson Lee?
1064 [No response.]
1065 Mr. Cohen?
1066 [No response.]

1067 Mr. Johnson of Georgia?
1068 Mr. Johnson of Georgia. Aye.
1069 Ms. Adcock. Mr. Johnson votes aye.
1070 Mr. Deutch?
1071 [No response.]
1072 Mr. Gutierrez?
1073 [No response.]
1074 Ms. Bass?
1075 [No response.]
1076 Mr. Richmond?
1077 [No response.]
1078 Mr. Jeffries?
1079 [No response.]
1080 Mr. Cicilline?
1081 [No response.]
1082 Mr. Swalwell?
1083 [No response.]
1084 Mr. Lieu?
1085 Mr. Lieu. Aye.
1086 Ms. Adcock. Mr. Lieu votes aye.
1087 Mr. Raskin?
1088 [No response.]
1089 Ms. Jayapal?
1090 Ms. Jayapal. Aye.
1091 Ms. Adcock. Ms. Jayapal votes aye.

1092 Mr. Schneider?

1093 Mr. Schneider. Yes.

1094 Ms. Adcock. Mr. Schneider votes yes.

1095 Chairman Goodlatte. The gentleman from Texas, Mr.

1096 Smith.

1097 Mr. Poe. No.

1098 Chairman Goodlatte. Well, we will take that one, and

1099 then we will go to Mr. Smith.

1100 Mr. Smith. We both vote no.

1101 Ms. Adcock. Mr. Poe votes no.

1102 Mr. Smith votes no.

1103 Chairman Goodlatte. Has every member voted who wishes

1104 to vote? The clerk will report.

1105 Ms. Adcock. Mr. Chairman, 6 members voted aye, 16

1106 members voted no.

1107 Chairman Goodlatte. And the amendment is not agreed

1108 to. Are there further amendments to H.R. 1842?

1109 A reporting quorum being present, the question is on

1110 the motion to report the bill H.R. 1842 favorably to the

1111 House.

1112 Those in favor will say aye.

1113 Those opposed, no.

1114 The ayes have it and the bill is ordered reported

1115 favorably. Members will have 2 days to submit views.

1116 Pursuant to notice, I now call up H.R. 1761 for

1117 purposes of markup and move that the committee report the
1118 bill favorably to the House. The clerk will report the
1119 bill.

1120 Ms. Adcock. H.R. 1761, to amend Title 18 United States
1121 Code to criminalize the knowing consent of the visual
1122 depiction or live transmission --

1123 Chairman Goodlatte. The clerk will suspend. I think
1124 there are still matters being worked on for this piece of
1125 legislation, so we will suspend proceeding on that
1126 legislation and instead proceed to H.R. 1862.

1127 Pursuant to notice, I now call that up for purposes of
1128 markup and move that the committee report the bill favorably
1129 to the House. The clerk will report the bill.

1130 Ms. Adcock. H.R. 1862, to amend Title 18 United States
1131 Code, to expand the scope of certain definitions pertaining
1132 to unlawful sexual conduct and for other purposes.

1133 [The bill follows:]

1134 ***** INSERT 3 *****

1135 Chairman Goodlatte. Without objection, the bill is
1136 considered as read and open for amendment at any time, and I
1137 will begin by recognizing myself for an opening statement.

1138 Today, we continue our efforts to combat child
1139 exploitation by marking up legislation designed to address
1140 loopholes in current law. We must assure that those who
1141 hurt children are not permitted to evade responsibility due
1142 to oversights or unintended legal inconsistencies. Anyone
1143 who sexually abuses a child should be prosecuted to the
1144 fullest extent of the law.

1145 We are protecting children with the introduction of
1146 H.R. 1862. This bill will provide law enforcement with a
1147 crucial tool, ensuring that predators do not escape justice
1148 by committing offenses abroad. Specifically, the bill
1149 ensures that the definition of illicit sexual conduct
1150 includes all potential situations where an adult defendant
1151 may abuse a child during foreign travel to engage in what is
1152 called sex tourism.

1153 This bill closes a significant loophole is pursuing
1154 these offenders. No longer will they be able to go abroad
1155 to prey on children without facing a possibility of
1156 significant punishment at home. They will also not be able
1157 to escape enhanced sentences for doing so.

1158 We live in an age where information sharing allows us
1159 to work together and accomplish great things.

1160 Unfortunately, that information sharing can also be used for
1161 nefarious purposes, including allowing child predators to
1162 share information on how to get away with abuse. The
1163 reality is that these criminals know exactly what conduct
1164 they can partake in to avoid prosecution, disseminating how-
1165 to guides to fellow predators.

1166 They participate in these acts without compunction,
1167 confident they will not face consequences. Every child
1168 predator should face punishment commensurate with their
1169 actions. This is especially true with recidivists, who
1170 abuse our youngest, most vulnerable victims.

1171 Mrs. Roby's bill further addresses loopholes that
1172 currently permit those who engage in illicit, sexual contact
1173 with minors under the age of 12 with the intent to sexually
1174 degrade, humiliate, and abuse those under 12 to avoid
1175 recidivism enhancements. Congress always intended for these
1176 victims to have the greatest protections, and we must ensure
1177 our laws reflect that intent.

1178 H.R. 1862 is good, well-crafted, common-sense
1179 legislation that will do a great deal to protect the most
1180 vulnerable among us, and I urge my colleagues to join me in
1181 support of this bill. And I now recognize the ranking
1182 member for his opening statement.

1183 [The prepared statement of Chairman Goodlatte follows:]

1184

***** COMMITTEE INSERT *****

1185 Mr. Conyers. Thank you, Mr. Chairman. Members of the
1186 committee, this measure would add new offenses to the
1187 current provision in the criminal code, providing for
1188 mandatory life imprisonment for certain, repeat sex
1189 offenders.

1190 Now, under section 3559(e) of title 18, a defendant
1191 guilty of a predicate, Federal sex offense against a child
1192 who has been previously convicted of a felony, Federal or
1193 State sex offense committed against a child, must be
1194 sentenced to life in prison. H.R. 1862 amends section 3559
1195 to add further Federal predicate offenses on which to base
1196 imposition of the life sentence, namely sexual contact with
1197 a minor under the age of 12, aggravated sexual contact with
1198 minors between the ages of 12 and 15, and illicit sexual
1199 conduct with a minor abroad by a United States citizen.

1200 The bill would also remove the requirement that a
1201 Federal predicate offense, relating to coercion or
1202 enticement of a minor, be related to prostitution and,
1203 instead, allow coercion or enticement of a minor into any
1204 criminal sexual activity to serve as a basis for the
1205 imposition of a mandatory life sentence.

1206 Repeat offenders should, of course, be subject to
1207 increased penalties, and for some offenses, life
1208 imprisonment is appropriate, yet Congress should not mandate
1209 that life imprisonment be imposed.

1210 I oppose mandatory minimum sentences, as you know, and
1211 I will, therefore, offer an amendment to address this issue
1212 by not having it apply to the offenses added to the statute
1213 under this bill. And if that amendment is adopted, I would
1214 gladly support this bill.

1215 I thank you, Mr. Chairman, and yield back.

1216 [The prepared statement of Mr. Conyers follows:]

1217 ***** COMMITTEE INSERT *****

1218 Chairman Goodlatte. The chair thanks the gentleman and
1219 is now pleased to recognize the sponsor of the bill, the
1220 gentlewoman from Alabama, Mrs. Roby, for her opening
1221 statement.

1222 Mrs. Roby. Thank you, Mr. Chairman. When I joined the
1223 Judiciary Committee earlier this year, I made it clear that
1224 combating crimes against children is one of my top
1225 priorities. It is why I wanted to be on the Crimes
1226 Subcommittee and why I am proud to be with you here today as
1227 we work to protect innocent children and bring those who
1228 would do harm to them justice.

1229 Crimes against children are shocking and ugly, which is
1230 what makes this subject so hard to talk about sometimes.
1231 Indeed, just speaking the term "global sex tourism" is
1232 enough to send chills up anybody's spine. Most Americans
1233 probably have no idea the extent to which children around
1234 the globe are at risk of exploitation, but that is what
1235 makes it so important that we do talk about it, and we
1236 address this problem head-on.

1237 Recently, I met with experts from the Department of
1238 Justice to discuss how loopholes in current law are allowing
1239 child predators to evade punishment for the abuse of
1240 children overseas. These loopholes were, of course, never
1241 intended; nonetheless, these technical flaws in the law are
1242 making it harder for authorities to put serial child abusers

1243 away where they belong.

1244 The bill before the committee today, the Global Child
1245 Protection Act, aims to close these loopholes and better
1246 equip law enforcement to protect children and punish
1247 abusers. Let's be clear: The current statute criminalizes
1248 the act of traveling abroad to do terrible things to
1249 children, but it does not criminalize the people who force
1250 children to perform sexual acts on them.

1251 Specifically, the bill expands the conduct covered for
1252 child sexual exploitation cases that involve abuse occurring
1253 abroad, to include sexual contact. And I think it is
1254 important to read this definition, based on the ranking
1255 member's comment. "Sexual contact is the intentional
1256 touching, either through the clothing or directly, of
1257 genitalia, anus, groin, breast, inner thigh, or buttocks, of
1258 any purpose, with the intent to abuse, humiliate, harass,
1259 degrade, arouse, or gratify the sexual desire of any
1260 person."

1261 And if we are going to sit here and debate whether or
1262 not having a piece of cloth between the child's private
1263 parts or not, it seems, to me, a bit misguided. I want to
1264 thank our strong partners with the Department of Justice for
1265 their commitment to combating exploitation and abuse here in
1266 our country and abroad. It certainly was not lost on me
1267 that, in his first official act after being sworn in,

1268 Attorney General Jeff Sessions presented the President with
1269 an executive order to strengthen the enforcement of Federal
1270 law on international trafficking, including human
1271 trafficking.

1272 It is our enduring responsibility to protect those
1273 among us who cannot protect themselves. We have dedicated
1274 law enforcement professionals working hard every day to
1275 protect children and punish abusers, but we need to make
1276 sure that they have every legal tool at their disposal to do
1277 their jobs.

1278 So thank you again, Mr. Chairman. I appreciate this
1279 committee's consideration of the Global Child Protection Act
1280 of 2017. I urge all of my colleagues to support this bill,
1281 and I yield back.

1282 [The prepared statement of Mrs. Roby follows:]

1283 ***** COMMITTEE INSERT *****

1284 Chairman Goodlatte. The chair thanks the gentlewoman,
1285 and it is now my pleasure to recognize the ranking member of
1286 the Subcommittee on Crime, Terrorism, Homeland Security, and
1287 Investigations, the gentlewoman from Texas, Ms. Jackson Lee,
1288 for her opening statement.

1289 Ms. Jackson Lee. Thank you very much, Mr. Chairman. I
1290 thank you and the ranking member. I know this has been a
1291 vigorous debate, and I also thank the sponsor of this
1292 legislation.

1293 For the years that I have been in the United States
1294 Congress, I founded and co-chaired the Congressional
1295 Children's Caucus, and as a member of the Homeland Security
1296 Committee, we worked extensively on the question of human
1297 trafficking, as we did here in the House Judiciary
1298 Committee.

1299 My somewhat delay to coming to this committee was
1300 dealing with an unfortunate set of circumstances within
1301 members of the United States Military, a marine, who happen
1302 to be female, who were subjected to the visual depiction of
1303 body parts, which, obviously, is almost akin, and results
1304 in, sexual assault. Those were adults.

1305 In this instance, this is an important initiative, and
1306 so I rise -- Mr. Chairman, forgive me -- to strike the last
1307 word, and I want to comment very briefly on strengthening
1308 the Children's Safety Act, and I think we are on the 1862.

1309 Let me just say that serious sex offenses, especially
1310 those involving innocent and vulnerable children, shock the
1311 conscience and are inexcusable acts against not only the
1312 child victims, but the community at large. As a founder and
1313 chair of the Children's Caucus and ranking member of this
1314 subcommittee, I am deeply concerned about child sex
1315 trafficking and any violent crime perpetrated against
1316 children.

1317 The crimes covered by these bills before us today are
1318 undoubtedly serious, and we do not underestimate the pain
1319 and suffering victims of these crimes in terms of the
1320 experience that they generate. I know that these bills are
1321 well-intentioned, so that we may move more comprehensively
1322 to address the range of conduct involved in the sexual
1323 exploitation of children, through pornography, sexual
1324 assault efforts, and trafficking, and let me be clear, I am
1325 very supportive of the efforts to do so.

1326 I do want to make mention that, however, these bills do
1327 make substantial changes to the Federal criminal statutes,
1328 and I hope that, even as we continue to process the need for
1329 this legislation, we will be open to all improvements that
1330 may be brought up to our attention that speak to the
1331 evidence-based solutions to comprehensive criminal justice
1332 reform, while holding paramount the safety and well-being of
1333 our communities.

1334 These are heinous crimes that we are trying to prevent,
1335 but I would offer to say that we are also working on
1336 legislation; in fact, we worked on the legislation that is,
1337 in fact, bipartisan, that is dealing with the issue of
1338 mandatory minimums and mass incarcerations. We have to be
1339 concerned about that.

1340 To speak specifically to 1862, the Global Child
1341 Protection Act of 2017 is intended to expand the scope of
1342 two statutes aimed at prosecuting those individuals that dare
1343 commit heinous sexual acts against children.

1344 First, section 2423 of title 18 prohibits four distinct
1345 offenses that involve illegal sexual activities related to
1346 interstate or foreign travel. Relative to the bill,
1347 subsection 2423(b) prohibits interstate or foreign travel
1348 for the purposes of participating in illicit sexual conduct,
1349 and subsection 2423(c) prohibits foreign travel and
1350 subsequent participation in illicit sexual conduct. That is
1351 the worst of what happens to victims before they are
1352 victimized sexually, raped, or killed, and that is to take
1353 them away: illicit sexual conduct, and then to take them
1354 overseas, or, more importantly, those going overseas to
1355 engage in illicit sexual conduct.

1356 The Global Child Protection Act of 2017 would expand
1357 the definition of illicit sexual conduct to include any
1358 conduct that constitutes aggravated sexual abuse, sexual

1359 abuse, sexual abuse of a minor, abusive sexual conduct, or
1360 any of these offenses that result in death, thereby
1361 prohibiting both sexual acts and sexual contact with minors.

1362 This change could ensure that no perpetrator of any
1363 type of sexual conduct involving a child slips away from
1364 prosecution by adding another tool in the weaponry available
1365 to prosecutors who fight daily to end the problem of child
1366 sex trafficking, particularly in my home State of Texas.

1367 Secondly, the Global Child Protection Act would add
1368 three new predicate offenses to subsection 3559(e) of title
1369 18. This section requires judges to impose a life sentence
1370 for repeat offenders. A defendant guilty of a predicate sex
1371 offense, which, if this bill is enacted, would include
1372 sexual conduct with a minor under the age of 12, aggravated
1373 sexual conduct with a minor between the ages of 12 and 15,
1374 and illicit sexual conduct with a minor abroad by a U.S.
1375 citizen, who has been previously convicted of a felony,
1376 Federal or State, sex offense committed against a child,
1377 would be sentenced to life in prison.

1378 This bill would also remove the requirement that a
1379 Federal predicate offense relating to coercion or enticement
1380 of a minor be limited to the prostitution of children and,
1381 instead, prohibit coercion or enticement of a minor in any
1382 criminal sexual activity to serve as a basis for imposition
1383 of a mandatory life sentence.

1384 I have no opposition to the change that would be made
1385 to section 2423. I am concerned, as I indicated, about the
1386 additional penalties that have been met. I do want to say
1387 that, to act against our children in such a dastardly,
1388 vicious, and vile way, requires the attention of the United
1389 States Congress and, particularly, the attention of this
1390 committee.

1391 I do want to thank the gentleman from Michigan, Mr.
1392 Conyers, for his work on the issues that we are concerned
1393 about, mandatory minimums and mass incarceration. I want to
1394 thank the chairman for his work on these issues of criminal
1395 justice, where we have worked together, and I just want to
1396 make sure, for the record, Mr. Chairman, we did
1397 Strengthening Children's Safety Act of 2017, H.R. 1842?

1398 Chairman Goodlatte. Yes. The chair would advise the
1399 gentlewoman that that has passed the committee.

1400 Ms. Jackson Lee. Thank you. And we pulled H.R. 1761,
1401 or are we just not doing it at this time?

1402 Chairman Goodlatte. We are not doing it today, but we
1403 are actively working to get it ready to consider in the
1404 committee as soon as possible.

1405 Ms. Jackson Lee. I appreciate it. So I am going to --

1406 Chairman Goodlatte. I thank Mr. Johnson for his work
1407 on that.

1408 Ms. Jackson Lee. And I thank Mr. Johnson for his work

1409 on that.

1410 So let me conclude my remarks by saying, any time we
1411 can protect our children, it is crucial, and I join in, as
1412 the ranking member on the subcommittee, but also on the full
1413 committee, to thank both of you for your concerns that have
1414 been expressed appropriately.

1415 Mr. Chairman, I will end, again, by saying we do good
1416 work in this committee, and I am looking forward to us
1417 pursuing some of the issues that we are trying to struggle
1418 with today, including the issue of Russian collusion and the
1419 issue of the wiretapping. I think these are appropriate
1420 matters for this committee, and I know that we can do this
1421 in a very positive way. With that, Mr. Chairman, your
1422 courtesy is appreciated. I yield back.

1423 [The prepared statement of Ms. Jackson Lee follows:]

1424 ***** COMMITTEE INSERT *****

1425 Chairman Goodlatte. The chair thanks the gentlewoman.

1426 Are there any amendments to H.R. 1862?

1427 For what purpose does the gentleman from --

1428 Mr. Conyers. Mr. Chairman, I have an amendment at the
1429 desk.

1430 Chairman Goodlatte. The clerk will read the amendment.

1431 Ms. Adcock. Amendment to H.R. 1862 offered by Mr.

1432 Conyers. Page 2, strike Line 14.

1433 [The amendment of Mr. Conyers follows:]

1434 ***** COMMITTEE INSERT *****

1435 Chairman Goodlatte. Without objection, the amendment
1436 is considered as read, and the gentleman is recognized for 5
1437 minutes on his amendment.

1438 Mr. Conyers. Thank you. Members of the committee,
1439 this amendment addresses concerns about mandatory minimum
1440 sentencing raised in this bill.

1441 Currently 18 U.S.C. section 3559(e) provides mandatory
1442 life imprisonment as the penalty for certain repeat
1443 offenders. The bill expands the offenses that would qualify
1444 as predicates for these penalties. While I do not suggest
1445 that the conduct involved in additions to section 3559 is
1446 not deserving of additional punishment, I do not support
1447 mandatory minimum penalties, particularly life imprisonment.
1448 And that is why my amendment would subject these additions
1449 to imprisonment for up to life, but not mandatory life.

1450 Therefore, a judge, who is presented with all of the
1451 facts and circumstances of a particular case and who is in
1452 the best position to impose an appropriate sentence, will
1453 have the ability to do so, including life imprisonment, if
1454 that is deemed to be just.

1455 Congress cannot anticipate or know the facts of every
1456 case, of course. Even in circumstances of particularly
1457 egregious crimes, judges are better positioned to impose
1458 sentences. This amendment would not alter the mandatory
1459 minimum sentencing provisions with respect to other crimes

1460 included in the sentencing scheme of section 3559(e),
1461 although I do not support those mandatory minimums either.

1462 This amendment merely, but importantly, allows us to
1463 apply strong and appropriate recidivist penalties to the
1464 additional crimes specified under this bill without relying
1465 on unjust mandatory minimums.

1466 And so I urge, I plead with my colleagues, to adopt
1467 this amendment. I thank the chairman and yield back my
1468 time.

1469 Chairman Goodlatte. The chair thanks the gentleman.

1470 For what purpose does the gentlewoman from Alabama seek
1471 recognition?

1472 Mrs. Roby. I move to strike the last word.

1473 Chairman Goodlatte. The gentlewoman is recognized for
1474 5 minutes.

1475 Mrs. Roby. First, a couple of comments about the
1476 gentleman's amendment.

1477 You know, under subsection 2 on line 4, by striking
1478 "into prostitution," that is in the underlying bill already.
1479 In the next section, what it does is it changes the current
1480 law by eliminating a large number of offenses from the
1481 enhancement that are already under the statute, limiting it
1482 only to two offenses against children. They should be
1483 included, but so should all of the other sections already
1484 covered under this statute, and this amendment seeks to

1485 eliminate those other.

1486 The first one, 2244(a)(5) dealing with contact, and
1487 section 2423(5), dealing with the transportation of minors,
1488 and limiting it only to those two. And so under the next
1489 section of the gentleman's amendment, it is not really even
1490 an enhancement as it is entitled because you already can be
1491 sentenced for life for the sexual abuse of a child under
1492 this statute, and rightfully so.

1493 And on the back page of the gentleman's amendment,
1494 under non-qualifying felonies, it appears to me that the
1495 language of the gentleman's amendment is suggesting that the
1496 defendant could raise, as a defense, the consent of a child.
1497 Under subsection A, it says, "The sexual act or activity was
1498 consensual and not for the purpose of commercial gain." I
1499 mean, I am blown away by this. To suggest that a child
1500 could consent to sexual abuse is extraordinary to me.

1501 And so, for these reasons, I certainly oppose the
1502 gentleman's amendment. If you go overseas after being
1503 convicted of sexual abuse of a child in the United States,
1504 you should be subject to this enhancement.

1505 This bill, very simply, closes a loophole when it comes
1506 to sex tourism, soliciting sexual acts from a minor, and to
1507 include that, not just what the person would do to a minor,
1508 but what the person would force the minor to do to them.
1509 And then the second part of this bill streamlines the

1510 enhancement.

1511 The gentleman's amendment limits the enhancement to
1512 only two sections currently covered under the criminal code.
1513 This is specifically written to go after people who cause
1514 harm to children.

1515 And so, with that, Mr. Chairman, I strongly oppose the
1516 gentleman's amendment, and I ask my colleagues to vote no.

1517 Chairman Goodlatte. The question occurs on the
1518 amendment offered by the gentleman from Michigan.

1519 All those in favor respond by saying aye.

1520 Those opposed, no.

1521 In the opinion of the chair, the noes have it.

1522 Recorded vote is requested, and the clerk will call the
1523 roll.

1524 Ms. Adcock. Mr. Goodlatte?

1525 Chairman Goodlatte. No.

1526 Ms. Adcock. Mr. Goodlatte votes no.

1527 Mr. Sensenbrenner?

1528 [No response.]

1529 Mr. Smith?

1530 [No response.]

1531 Mr. Chabot?

1532 [No response.]

1533 Mr. Issa?

1534 [No response.]

1535 Mr. King?

1536 [No response.]

1537 Mr. Franks?

1538 Mr. Franks. No.

1539 Ms. Adcock. Mr. Franks votes no.

1540 Mr. Gohmert?

1541 Mr. Gohmert. No.

1542 Ms. Adcock. Mr. Gohmert votes no.

1543 Mr. Jordan?

1544 [No response.]

1545 Mr. Poe?

1546 [No response.]

1547 Mr. Chaffetz?

1548 Mr. Chaffetz. No.

1549 Ms. Adcock. Mr. Chaffetz votes no.

1550 Mr. Marino?

1551 Mr. Marino. No.

1552 Ms. Adcock. Mr. Marino votes no.

1553 Mr. Gowdy?

1554 Mr. Gowdy. No.

1555 Ms. Adcock. Mr. Gowdy votes no.

1556 Mr. Labrador?

1557 [No response.]

1558 Mr. Farenthold?

1559 [No response.]

1560 Mr. Collins?
1561 [No response.]
1562 Mr. DeSantis?
1563 [No response.]
1564 Mr. Buck?
1565 [No response.]
1566 Mr. Ratcliffe?
1567 Mr. Ratcliffe. No.
1568 Ms. Adcock. Mr. Ratcliffe votes no.
1569 Mrs. Roby?
1570 Mrs. Roby. No.
1571 Ms. Adcock. Mrs. Roby votes no.
1572 Mr. Gaetz?
1573 Mr. Gaetz. No.
1574 Ms. Adcock. Mr. Gaetz votes no.
1575 Mr. Johnson of Louisiana?
1576 Mr. Johnson of Louisiana. No.
1577 Ms. Adcock. Mr. Johnson votes no.
1578 Mr. Biggs?
1579 Mr. Biggs. No.
1580 Ms. Adcock. Mr. Biggs votes no.
1581 Mr. Conyers?
1582 Mr. Conyers. Aye.
1583 Ms. Adcock. Mr. Conyers votes aye.
1584 Mr. Nadler?

1585 [No response.]

1586 Ms. Lofgren?

1587 [No response.]

1588 Ms. Jackson Lee?

1589 Ms. Jackson Lee. Aye.

1590 Ms. Adcock. Ms. Jackson Lee votes aye.

1591 Mr. Cohen?

1592 [No response.]

1593 Mr. Johnson of Georgia?

1594 [No response.]

1595 Mr. Deutch?

1596 [No response.]

1597 Mr. Gutierrez?

1598 [No response.]

1599 Ms. Bass?

1600 [No response.]

1601 Mr. Richmond?

1602 [No response.]

1603 Mr. Jeffries?

1604 [No response.]

1605 Mr. Cicilline?

1606 [No response.]

1607 Mr. Swalwell?

1608 [No response.]

1609 Mr. Lieu?

1610 [No response.]

1611 Mr. Raskin?

1612 [No response.]

1613 Ms. Jayapal?

1614 [No response.]

1615 Mr. Schneider?

1616 [No response.]

1617 Chairman Goodlatte. The gentleman from Wisconsin?

1618 Mr. Sensenbrenner. No.

1619 Ms. Adcock. Mr. Sensenbrenner votes no.

1620 Chairman Goodlatte. The gentleman from Texas, Mr. Poe?

1621 Mr. Poe. No.

1622 Ms. Adcock. Mr. Poe votes no.

1623 Chairman Goodlatte. The gentleman from California, Mr.

1624 Lieu?

1625 Ms. Adcock. Not recorded.

1626 Mr. Lieu. No.

1627 Ms. Adcock. Mr. Lieu votes no.

1628 Chairman Goodlatte. Has every member voted who wishes

1629 to vote?

1630 The clerk will report.

1631 Ms. Adcock. Mr. Chairman, 2 members voted aye; 14

1632 members voted no.

1633 Chairman Goodlatte. The amendment is not agreed to.

1634 Are there further amendments to H.R. 1862?

1635 Ms. Jackson Lee. Mr. Chairman, I seek a clarification,
1636 please.

1637 Chairman Goodlatte. The gentlewoman is recognized.

1638 Ms. Jackson Lee. The gentleman's amendment has just
1639 been offered and voted on, but I do want to make it clear
1640 that the gentleman's amendment, on page 2, was reciting
1641 language that is in the underlying bill. So the underlying
1642 bill has the language, "Sexual act or activity was
1643 consensual and not for the purpose of commercial, pecuniary
1644 gain." It is not to, in any way, diminish any sexual
1645 activity among minors, but that is in the underlying bill.

1646 The gentleman did not create that out of a whole sack.
1647 So I want to thank the gentleman, Mr. Conyers, for his
1648 amendment, and I understand the premise of it, for which I
1649 voted aye, which is to give the judge the discretion to give
1650 life, life without parole, and any additional sentencing on
1651 the bases of the horror and horrors of this particular
1652 act.

1653 So Mr. Chairman, I thank you for allowing me to clarify
1654 that what was being read by my good friend from Alabama was
1655 the language that was already in the bill and not anything
1656 that Mr. Conyers had added to the bill.

1657 Chairman Goodlatte. If the gentlewoman would yield, I
1658 certainly appreciate the gentlewoman's explanation, and I
1659 certainly do not question the motives of the ranking member,

1660 but we do not believe the language is in the underlying bill
1661 either. But in any event, we appreciate your effort to
1662 clarify that.

1663 Ms. Jackson Lee. It was in subsection (e), Mr.
1664 Chairman, but anyhow, you are very kind, and I yield back to
1665 your kind yielding to me. Thank you.

1666 Chairman Goodlatte. We cannot find that, but we
1667 certainly appreciate your making it clear that the gentleman
1668 from Michigan does not intend that there be exoneration or
1669 lack of prosecution or sentencing for someone who is
1670 claiming consensual behavior on the part of a minor, which I
1671 think we are all in agreement is not a --

1672 Ms. Jackson Lee. Thank you, Mr. Chairman. I need to
1673 vote.

1674 Mr. Chaffetz. Mr. Chairman?

1675 Chairman Goodlatte. For what purpose does the
1676 gentleman from Utah seek recognition?

1677 Mr. Chaffetz. Could the gentlewoman from Texas clarify
1678 and point to the specific place in the bill where she thinks
1679 this is?

1680 Chairman Goodlatte. We have not been able to find
1681 that.

1682 Mr. Chaffetz. I am asking if she would clarify it.
1683 Show us where it is. If it is, I would love to see it.

1684 Ms. Jackson Lee. That is what we are doing. Thank

1685 you.

1686 Chairman Goodlatte. Anyway, I thank the gentlewoman.

1687 Ms. Jackson Lee. Thank you.

1688 Chairman Goodlatte. Are there further amendments to

1689 H.R. 1862?

1690 A reporting quorum being present, the present question

1691 is on the motion to report the bill H.R. 1862 favorably to

1692 the house.

1693 Those in favor respond by saying aye.

1694 Those opposed, no.

1695 The ayes have it, and the bill is ordered reported

1696 favorably.

1697 Members will have 2 days to submit views.

1698 That concludes the business for today, and I want to

1699 thank all of the members for attending, and the markup is

1700 adjourned.

1701 [Whereupon, at 12:39 p.m., the committee adjourned

1702 subject to the call of the chair.]