

hero. Cliches can be tiresome, but generally they have to be true to become a cliché. One such unsung hero in the history of this House recently died. His name was Leo Diehl.

Tip O'Neill was a great Speaker, and we have seen before and since that it is not as easy to be a successful Speaker as it may look. One reason Tip was so good at his job was the friendship and partnership he had with Leo Diehl.

Leo Diehl was a man of integrity, vision and intelligence. He had lost the use of much of his body, but his brain worked, and his eyes and ears and mouth. Because of the great friendship with Leo Diehl, because he could so clearly rely on a man of such strength of character and wisdom, that was one of the reasons that Tip O'Neill's speakership, as he was free to acknowledge, was so successful.

Leo Diehl recently died at the age of 92. He was a great figure in the history of this House, and I think it is appropriate that those of us particularly who served under Tip O'Neill's speakership with Leo Diehl mourn him today.

REMEMBERING LEO DIEHL

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

Mr. MCGOVERN. Mr. Speaker, I want to join with my colleague from Massachusetts, Congressman BARNEY FRANK, in paying tribute to a great man, Leo Diehl, who recently died.

He served as Tip O'Neill's right-hand man and was a great counselor not only to Tip, but to so many people who served in this Congress during those years. Those of us who were members of congressional staff remember him with great fondness and great respect.

The great people who serve in this institution are not just the people who get elected, but often those who serve those who are elected. Leo Diehl was a wonderful man. The world has lost a great person.

□ 1030

PRESIDENT BUSH MISREPRESENTS IRAQ'S IMPACT ON THE OVERALL GLOBAL WAR ON TERROR

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

Ms. WATSON. Mr. Speaker, it is nice to see that we really and finally are hearing the truth from the Bush administration about the Iraq war and its impact on the overall global war on terror. The problem is we didn't hear it from the President himself. No. It comes from a top secret intelligence document that I am sure the President hoped never saw the light of day.

For the better part of a month now, President Bush has been trying to persuade the American people that we are

safer today than we were before 9/11. This national intelligence report contradicts the President's statements and says that the war in Iraq has actually made our fight against terrorism even more difficult.

So the question is, why would the President go out and say we are safer if his intelligence agencies refute these claims? Either President Bush has not personally read the top secret report or he is not leveling with the American people about the real worldwide threat we continue to face and how Iraq has made those threats even worse.

PROVIDING FOR CONSIDERATION OF H.R. 2679, VETERANS' MEMORIALS, BOY SCOUTS, PUBLIC SEALS, AND OTHER PUBLIC EXPRESSIONS OF RELIGION PROTECTION ACT OF 2006

Mr. GINGREY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1038 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1038

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2679) to amend the Revised Statutes of the United States to eliminate the chilling effect on the constitutionally protected expression of religion by State and local officials that results from the threat that potential litigants may seek damages and attorney's fees. The amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as adopted. The bill, as amended, shall be considered as read. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. GINGREY) is recognized for 1 hour.

Mr. GINGREY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 1038 is a closed rule. It allows 1 hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. It waives all points of order against consideration of the bill, and it provides that the amendment in the nature of a substitute as reported by the Committee on the Judiciary shall be considered as adopted. H. Res. 1038 also provides for one motion to recommit with or without instructions.

Mr. Speaker, as you and many others may have noticed, if you look up from the front podium, in the center of the

molding above the gallery is a sculpture of Moses, the man who freed the slaves in Egypt and introduced God's law to man. Moses is at the forefront of all of the great legal scholars depicted in this Chamber because of his responsibilities as both a religious leader and the custodian of God's law.

The Ten Commandments are the foundation of common law and the "rights endowed by our Creator." However, in recent decades, the Ten Commandments, religious symbols, and religious liberties in general have been under attack. More specifically, they have been under attack by the same interests that claim to represent civil liberties and free speech.

On July 19, 2005, a month after the Supreme Court ruled on the two Kentucky Ten Commandments cases, United States District Court Judge William O'Kelley ruled in my home State of Georgia that the courthouse in Barrow County, my daughter-in-law's home, had to remove a framed poster of the Ten Commandments and awarded the American Civil Liberties Union, the ACLU, \$150,000.

Mr. Speaker, small counties like Barrow cannot afford these costly lawsuits; and my daughter-in-law's parents, Emory and Pat House of Winder, Georgia, experienced an increase in their taxes to help pay for these court costs and the legal fees.

This past July, we had a debate over legislation to preserve the Mount Soledad Veterans Memorial in San Diego, California, from having to remove a cross. Mr. Speaker, one can only wonder how those Korean War veterans, many of whom gave their lives for this country, might have felt had that cross been removed from their memorial cemetery. Thankfully, Mr. HUNTER's legislation passed and was signed into law, but I am stunned at how far our society has fallen when people are compelled to sue a major city to have a cross removed from, of all places, a memorial cemetery.

Mr. Speaker, we cannot continue to allow frivolous and, frankly, unwarranted lawsuits to stifle the beliefs and self-determination of our great communities. This is a textbook example of an issue that needs to be addressed by this Congress.

I have always believed that one man's rights end where another man's rights begin, and we need to draw the line to clarify our first amendment and ensure impartiality for legal challenges.

The rule we are debating today would allow for the consideration of H.R. 2679, the Veterans' Memorials, Boy Scouts, Public Seals, and Other Public Expressions of Religion Act of 2006. I want to thank Mr. HOSTETTLER for sponsoring this legislation and Chairman SENSENBRENNER for the opportunity to discourage frivolous obstruction to our constitutional rights of religious expression.

The Public Expression of Religion Act would prevent Federal courts from

awarding monetary relief to parties claiming violations based on the constitutionally prohibited “establishment of religion.” In addition, H.R. 2679 would prevent plaintiffs who have won such claims from being awarded attorneys’ fees and so-called court expenses.

However, what is more concerning is when a defendant decides, a city or county like Barrow and Winder, Georgia, to settle without challenging the frivolous accusations not because they could not win but because they cannot match the challenger’s legal war chest. H.R. 2679 will ensure that each party in an Establishment Clause lawsuit shoulders its own costs.

Mr. Speaker, beyond the issue of religious expression, this is an issue about lawsuit reform. We need to move away from this current sue-or-be-sued society, which offers little to no repercussions for those seeking financial gain or the advancement of some personal or political agenda.

As many of my colleagues know, before being elected to this Congress, I had a career as an OB/GYN physician. Most of my patients thought I was a successful, good doctor, but I was in constant fear of medical liability lawsuits, like many of my colleagues, and struggled to make these exorbitant malpractice insurance payments. As a result, one of my primary objectives as a retired doctor now and Member of Congress is to help pass medical malpractice reform and, as a direct result, reduce the cost of health care. What we have with the Establishment Clause litigation is very similar, because the multiple lawsuits tie up our court system and they affect everybody.

Mr. Speaker, the United States Constitution is a revolutionary and sacred document on many levels. Our Founding Fathers had great foresight when they designed our government. The first amendment is an absolute right and should not be misinterpreted to allow these attacks on our freedom of religion. The attack on our religious heritage is just as wrong as denying a person the freedom to worship. The Constitution guarantees freedom of religion, not freedom from religion. And it is my hope that with the passage of this legislation we can prevent future Barrow County rulings and preserve our Nation’s heritage.

I ask my colleagues to support this rule and the underlying legislation.

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

Mr. MCGOVERN. Mr. Speaker, I want to thank the gentleman from Georgia, Dr. GINGREY, for yielding me the customary 30 minutes, and I yield myself 5 minutes.

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

Mr. MCGOVERN. Mr. Speaker, the political season is upon us. There is just 1 week left before we adjourn for the midterm elections. And what does that mean? It means we will shove im-

portant issues to the side and move the sound bite and wedge issues to the forefront. It means that this Congress will become a place where trivial issues are debated passionately and important ones not at all. The legislation before us is not needed, will not be enacted by the Senate, and, quite frankly, is a waste of our time.

The so-called Public Expression of Religion Act, which should really be called the “cheap political expression act,” is simply another wedge issue brought to the floor by the Republican leadership that will be used as a political tool in the November elections. The bill bars the award of attorneys’ fees to prevailing parties asserting their fundamental constitutional rights in cases brought under the Establishment Clause of the first amendment. In other words, the Public Expression of Religion Act will prevent lawyers from being paid for representing people who believe that their religious freedoms have been violated.

Now, there is a legal separation of church and State in this country, and we have a court system designed to mediate any dispute over the law, including legal disputes over the separation of church and State. We have an independent judiciary, and they deserve to do the job the framers intended them to do.

But this bill does not allow them to do the job the framers empowered them to do. If this bill is enacted, attorneys will stop representing people who feel that their rights are infringed upon because they won’t be compensated for doing their jobs.

The fact, Mr. Speaker, is that there are some on the other side of the aisle who don’t like some of the decisions the courts have handed down in regards to the display of certain religious symbols; and since they cannot win in court based on rights guaranteed in the Constitution of the United States, my good friends on the other side of the aisle are now attempting to rig the process in their favor.

Now, there are decisions the courts hand down that I do not agree with, and I can think of a few that the Supreme Court has handed down that I don’t agree with. But I do not run to the floor of this House with legislation overturning those decisions. Mr. Speaker, this is a slippery slope that will ultimately cause real legal problems if this bill is ever enacted into law.

Mr. Speaker, my colleague on the Rules Committee, Mr. HASTINGS of Florida, said it best during yesterday’s hearing on this rule. He said, “I don’t understand what’s broken.” Well, let me tell you, Mr. Speaker, what is really broken. The way we treat people who need the most help in this country is broken. The way we protect our homeland is broken. The independent 9/11 Commission has given us D’s and F’s in terms of implementing their recommendations to protect the people of this country. It is a broken process.

And the way we are perceived around the world is broken. We have never, ever been held in such low esteem. The way the people of this country view the United States Congress is broken. We have never had lower ratings than we do right now, because people are fed up with the things that are being brought to this floor.

Instead of addressing the more important and pressing issues, we are forced by the Republican leadership to debate and vote on a bill restricting attorneys’ fees.

Where, Mr. Speaker, is a clean bill increasing the minimum wage? The Federal minimum wage is stuck at \$5.15 an hour, and 9 years ago was the last time we raised the Federal minimum wage. Yet this Congress has given itself nine pay increases. Where is the legislation implementing the rest of the 9/11 Commission’s recommendations? Where is the Labor-HHS-Education appropriations bill?

Mr. Speaker, we shouldn’t adjourn before we consider these bills; and bringing up another bill, attacking lawyers for doing their job, does nothing to address these problems.

I urge my colleagues to reject this partisan political legislation, this legislation that is not needed, and instead demand that the leadership of this House bring to the floor meaningful legislation. I would also urge my colleagues to defeat this rule. It is another closed rule. Democracy is dead in this House of Representatives. I cannot remember the last time we had an open rule. There is no reason why this should be a closed rule.

Mr. Speaker, I will insert in the RECORD a number of letters from individuals and organizations that are opposed to this legislation.

First, a letter signed by a number of religious and civil rights organizations, including the American-Arab Anti-Discrimination Committee, the American Jewish Committee, the American Jewish Congress, the Anti-Defamation League, the Baptist Joint Committee, People for the American Way, the Interfaith Alliance, Unitarian Universalist Association of Congregations, and a whole range of other organizations opposed to this.

I would also like to insert in the RECORD a letter opposing this legislation signed by the leaders of the Leadership Conference on Civil Rights.

LEADERSHIP CONFERENCE ON

CIVIL RIGHTS,

September 18, 2006.

DEAR REPRESENTATIVE: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation’s oldest, largest, and most diverse civil and human rights coalition, we urge you to oppose the “Veterans’ Memorials, Boy Scouts, Public Seals, and Other Public Expressions of Religion Protection Act of 2006” (H.R. 2679). H.R. 2679 would bar attorney’s fees to parties who prevail in cases brought under the Establishment Clause of the First Amendment to the U.S. Constitution. It would also make injunctive and declaratory relief the only remedies available in such cases.

H.R. 2679 is unprecedented. It would, for the first time, single out one area of constitutional protections under the Bill of Rights and prevent its full enforcement. It would greatly undermine the ability of citizens to challenge Establishment Clause violations, as legal fees often total tens or even hundreds of thousands of dollars, making it difficult to impossible for most citizens to pursue their rights without the possibility of recovering attorney's fees. In addition, because a prevailing party would not even be able to recoup court costs, it would prevent most attorneys from even taking cases on a pro bono basis.

By deterring attorneys from taking Establishment Clause cases, H.R. 2679 would leave many parties whose rights have been violated without legal representation. As such, it would effectively insulate serious constitutional violations from judicial review. It would become far easier for government officials to engage in illegal religious coercion of public school students or in blatant discrimination against particular religions.

If the rights guaranteed under the U.S. Constitution are to be meaningful, every American must have full and equal access to the federal courts to enforce them. The ability to recover attorney's fees in successful cases has long been an essential component of this enforcement, as Congress has recognized in the past. As such, we strongly urge you to oppose H.R. 2679.

Thank you for your consideration. If you have any questions, please contact Rob Randhava, LCCR Counsel, at 202-466-6058 or randhava@civilrights.org.

Sincerely,

WADE HENDERSON,
Executive Director.
NANCY ZIRKIN,
Deputy Director.

OPPOSE H.R. 2679, THE "PUBLIC EXPRESSION OF RELIGION ACT"

SEPTEMBER 22, 2006.

DEAR REPRESENTATIVE: We write to urge you to oppose the "Public Expression of Religion Act of 2005" (H.R. 2679). This bill would bar the award of attorneys' fees to prevailing parties asserting their fundamental constitutional rights in cases brought under the Establishment Clause of the First Amendment to the U.S. Constitution. This bill would limit the longstanding remedies available under 42 U.S.C. 1988 (which provides for attorneys fees and costs in successful cases involving constitutional and civil rights violations) in cases brought under the Establishment Clause. If this bill were to become law, the only remedy available to plaintiffs bringing Establishment Clause lawsuits would be injunctive and declaratory relief. As a result, Congress would single out one area of constitutional protections under the Bill of Rights and prevent its full enforcement.

Religious expression is not threatened by the enforcement of the Establishment Clause, but is protected by it. The Establishment Clause promotes religious freedom for all by protecting against government sponsorship of religion. While the signers of this letter may differ on the exact parameters of the Establishment Clause or even on the outcome of particular cases, we all believe that the Establishment Clause together with the Free Exercise Clause, protects religious freedom. The purpose of this bill, however, is to make it more difficult for citizens to challenge violations of religious freedom. But with legal fees often totaling tens—if not hundreds—of thousands of dollars, few citizens can afford to do so. Most attorneys cannot afford to take cases, even on a pro bono basis, if they are barred from recouping their

fees and out-of-pocket costs if they ultimately prevail. The elimination of attorney's fees for Establishment Clause cases would deter attorneys from taking cases in which the government has violated the Constitution, thereby leaving injured parties without representation and insulating serious constitutional violations from judicial review.

This bill raises serious constitutional questions and would set a dangerous precedent for the vindication of all civil and constitutional rights. If the right to attorney's fees is taken away from plaintiffs who prove violations of the Establishment Clause, other fundamental rights are likely to be targeted in the future. What will happen when rights under the Free Exercise Clause are targeted? Can we imagine a day when citizens cannot enforce their longstanding free speech rights, or bring a case under the constitution to challenge the government's use of eminent domain to take their property, simply because they cannot hire an attorney to represent them? Surely, these and other fundamental rights might not be far behind once Congress opens the door to picking and choosing which constitutional rights it wants to protect and which ones it wants to disfavor.

If the Constitution is to be meaningful, every American should have equal access to the federal courts to vindicate his or her fundamental constitutional rights. The ability to recover attorney's fees in successful cases is an essential component for the enforcement of these rights, as Congress has long recognized. We urge you to protect the longstanding ability of Americans to recoup their costs and fees when faced with basic constitutional violations and urge you in the strongest terms to oppose H.R. 2679.

Sincerely,

ADA Watch/National Coalition for Disability Rights,
Alliance for Justice,
American-Arab Anti-Discrimination Committee (ADC),
American Civil Liberties Union,
American Humanist Association,
American Jewish Committee,
American Jewish Congress,
Americans for Democratic Action,
Americans United for Separation of Church and State,
Anti-Defamation League,
Asian American Justice Center,
Asian Law Caucus,
Asian Pacific American Legal Center,
Baptist Joint Committee,
Bazon Center for Mental Health Law,
Equal Justice Society,
Gay & Lesbian Advocates & Defenders,
Human Rights Campaign,
Japanese American Citizens League,
Jewish Council for Public Affairs (JCPA),
Lawyers' Committee for Civil Rights Under Law,
Legal Momentum,
Mexican American Legal Defense and Educational Fund (MALDEF),
National Association for the Advancement of Colored People (NAACP),
National Center for Lesbian Rights,
National Council of Jewish Women,
National Employment Lawyers Association,
National Gay and Lesbian Task Force,
National Lawyers Guild,
National Partnership for Women & Families,
National Senior Citizens Law Center,
National Women's Law Center,
National Workrights Institute,
People For the American Way,
Public Justice Center,
Secular Coalition for America,
Sikh American Legal Defense and Education Fund (SALDEF),

The Impact Fund,
The Interfaith Alliance,
The Puerto Rican Legal Defense and Education Fund,
The Urban League,
Union for Reform Judaism,
Unitarian Universalist Association of Congregations.

□ 1045

Mr. Speaker, I yield 8 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, the gentleman from Georgia said the Constitution is a sacred document. I agree. And that is exactly why I passionately oppose this ill-advised legislation, because it does a disservice to the Constitution by making it more difficult to enforce the first amendment to the Constitution, which is dedicated to protecting our first freedom in America, religious freedom.

I am glad to join with faith-based groups, such as the Baptist Joint Committee, the Interfaith Alliance, along with the American Jewish Committee, in strong opposition to this bill. Why? Because this bill would make it more difficult for ordinary Americans to denied their religious freedom against intrusion by government. For over two centuries, the first amendment of our Bill of Rights has protect religious freedom for all Americans.

Listen with me to the words of Thomas Jefferson written in his 1802 letter to the Danbury Baptists: "I contemplate with sovereign reverence," sovereign reverence, "that Act of the whole American people which declared that their legislature should," and here he quotes the Constitution, "make no law respecting an establishment of religion or prohibiting the free exercise thereof, thus building a wall of separation between church and state."

Today's amendment would not just chip away, it would chisel away, the wall of separation of church and state. It would knock down the fundamental part of that wall that was designed to keep government out of our houses of worship and out of our own private religious faith.

Today's amendment is a wolf in sheep's clothing. Time for maximum political sound bites, I understand that, just prior to an election. This bill claims to protect the public expression of religion, but it does not do that. What it does is protect the power of government to step on the individual rights of every American citizen when it comes to the exercise of their religious freedom, and it allows the government to inhibit the individual's right to exercise his or her views of faith by using government power to force someone's religion on someone else.

The truth is, this bill undermines the enforcement of the establishment clause of the first amendment, which was designed exactly to protect Americans from government intrusion into our faith. Now, Mr. Madison and Mr. Jefferson knew that government intrusion into religion is the greatest single threat to religious freedom.

And that is why they embedded into our Bill of Rights the fundamental principle that government should not use its power to promote anyone's religion upon anyone else. The principle of church-state separation has been a magnificent bulwark for over 200 years against government intrusion into our houses of worship and our private faith.

Unfortunately, this bill would make it more difficult for citizens to protect that religious freedom by using our judicial system to enforce the first amendment to the Constitution. In fact, this bill would go so far as to say, even if a plaintiff, in defense of religious freedom in the first amendment to the Bill of Rights, even if that plaintiff wins the case before the United States Supreme Court, that party would not be reimbursed for their legal fees.

Let me remind my friends of faith that should, for example, someone not put a 2½ ton monument of the Ten Commandments in an Alabama courthouse, but put a 2½ ton monument to Buddha in an Alabama or a Georgia or a Texas courthouse, this bill would prohibit people of the Christian faith, for example, from filing a lawsuit and then recovering damages if the Supreme Court said, yes, it was wrong for that county judge to put a 2½ ton statue of Buddha in that Alabama courthouse.

This bill does not protect public expression of religion, as its title suggests. To the contrary, this bill should be called, let's not enforce the first amendment to the Constitution, because that is exactly what this legislation does. It makes it harder, if not impossible, for many citizens to stop the intervention of government into our religious faith and our lives.

By making it easier for government to step on the first amendment religious rights of all Americans, this bill does damage to what Jefferson called, with reverence, the wall of separation between church and state.

Mr. Speaker, I believe America's greatest single contribution to the world from our experiment in democracy is our system of protecting religious freedom through the separation of church and state. Our system, built upon the sacred foundation of the first amendment, has resulted in a Nation with more religious freedom, vitality and tolerance than any nation in the world. How ironic and sad it is that while we are preaching democracy and church-state separation to the Iraqis, right here today in the cradle of America's democracy some would try to tear down the wall of separation between church and state.

If anyone thinks government is a friend of religious freedom, then vote for this dangerous, ill-advised legislation during the middle of campaign season. However, I would challenge any Member, Mr. Speaker, to show me one nation, show me one nation in the history of the world where government endorsement and involvement in reli-

gion has resulted in more religious freedom than we have in America.

I would be glad to yield any time for any Member who can show me one nation where that has been the case. Aside from the clear lessons of history that have shown just the contrary, that government is a danger to religious freedom, one only has to look at the Middle East today to find out the danger we have when we allow government to use its power and its money to force religion or anyone's religious views on any other citizen.

Church-state separation does not mean keeping people of faith out of government, but it does. And it should, and I pray it always will mean keeping government out of our faith. That is what the establishment clause of the first amendment is all about. That is why that principle was written into our Bill of Rights. And not only the Bill of Rights, but the first 16 words of the first amendment thereof. That is how important Mr. Madison thought, and the Founding Fathers thought, this principle of church separation was to our Republic.

Mr. Speaker, if I must choose today between standing on the side of campaign sound bite politics, or standing with Mr. Madison, Mr. Jefferson and the Bill of Rights, I will proudly stand with our Founding Fathers and our Constitution.

Religious freedom is a gift from God. And our Bill of Rights has been a magnificent steward of that precious gift for over two centuries. Let us not tamper with that divine gift in election season. Vote "no" on this bill.

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

Mr. Speaker, the previous speaker talking about the rights of people to sue, and that this bill would discourage that right because we are taking away the ability to recover monetary damages or legal fees and court costs, the American Civil Liberties Union probably files most of these lawsuits on behalf of plaintiffs. They have said very clearly that their motivation is not fees, is not compensation. If there were no fees involved, they would continue to file these lawsuits even though in many cases of course there are tremendous legal fees and court costs awarded, monetary damages.

I want to just, Mr. Speaker, in response to the previous speaker, list a few examples of what I am talking about. I mentioned already in my home State of Georgia, Barrow County of the \$150,000 cost. And that small struggling county elected to defend themselves. And that is what it ended up costing them.

Another example. The ACLU received \$950,000 in a settlement with the city of San Diego in a case involving the San Diego Boy Scouts. The ACLU received \$121,000 in Kentucky in a case to remove a Ten Commandments monument outside of the capitol.

The ACLU and two other groups received nearly \$550,000 in an Alabama

case to remove the Ten Commandments from a courthouse. I could go on and on and on. But in regard to rights, this case as we will hear, I am sure, from the author of the legislation as we discuss the bill, is not about removing anybody's rights under the establishment clause, not at all.

But we are talking about the rights of these small counties and cities, which represent a lot of people, and their ability to defend themselves when they have not violated the Constitution at all. The Constitution calls for a separation of church and state and a freedom from the imposition of a state religion, but it does not call for the total elimination of religion and the removal of a cross from a veterans cemetery in San Diego.

Mr. Speaker, if we continue down this line, pretty soon Moses will be removed from this Chamber based on the same argument. So I say to my friend from the other side that we need a balancing of rights. That is what this is all about. Let's level the playing field. We are not eliminating anybody's constitutional rights under the establishment clause.

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

Mr. MCGOVERN. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I would just like to point out to my friend from Georgia that this legislation, that if one reads it, says that even if a party has prevailed in the United States Supreme Court in an enforcement of the first 16 words of the Bill of Rights, that that party would be denied legal fees.

That is why I say this should be entitled, "let's not enforce the Bill of Rights legislation." And again, groups such as the Baptist Joint Committee strongly oppose this. Why? Because what if that courthouse in Alabama had had a judge that put a 2½ ton statue of Buddha in there. Would one not give the citizens of that community the right to respond?

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

Mr. Speaker, let me read a line from a letter that was sent to all Members of Congress from the Baptist Joint Committee for Religious Freedom.

They write: "The protections of the first amendment, however, are not self-enforcing. If someone is forced to sue the government to enjoy their constitutional rights, justice and fundamental fairness dictate that they be able to recover the legal fees expended to do so."

BAPTIST JOINT COMMITTEE FOR
RELIGIOUS LIBERTY,

Washington, DC, September 12, 2006.

DEAR REPRESENTATIVE: The Baptist Joint Committee for Religious Liberty (BJC) urges you to vote NO on H.R. 2679, the so-called "Veterans' Memorials, Boy Scouts, Public Seals, and Other Public Expressions of Religion Protection Act of 2006." The bill recently passed out of the Judiciary Committee and could be on the floor as early as this week. The BJC is a 70-year-old education and advocacy organization dedicated

to the principle that religion must be freely exercised, neither advanced nor inhibited by government. Our mission stems from the historic commitment of Baptists to protect religious freedom for all.

We oppose this legislation that seeks to limit access to the federal courts for individuals seeking the enforcement of the Establishment Clause. To prohibit the recovery of attorney's fees and limit the remedy available to injunctive and declaratory relief would essentially shut the courthouse door to many who seek to defend our first freedom. Enforcement of the First Amendment is essential for the defense of religious freedom. The protections of the First Amendment, however, are not self-enforcing. If someone is forced to sue the government to enjoy their constitutional rights, justice and fundamental fairness dictate they be able to recover the legal fees expended to do so.

Despite the claims of the bill's sponsor, this legislation does not promote the expression of religion. Instead, the bill undermines fundamental constitutional protections that have provided for a great deal of religious expression in the public square. The Establishment Clause exists to protect the freedom of conscience and to guard against government promotion of religion, leaving religion free to flourish on its own merits. This point was well-stated by former Supreme Court Justice Sandra Day O'Connor in her concurring opinion in *McCreary County, Kentucky v. ACLU* (2005). She noted, "Voluntary religious belief and expression may be threatened when government takes the mantle of religion upon itself as when government directly interferes with private religious practices."

Governmental entities should be encouraged to uphold constitutional values, not invited to ignore them. Yet, passage of H.R. 2679 would encourage elected officials to violate the Establishment Clause whenever they find it politically advantageous to do so. By limiting the remedies for a successful plaintiff, this measure would remove the threat that exists to ensure compliance with the Establishment Clause.

We urge you to oppose H.R. 2679. The bill is an assault on an essential constitutional freedom. If passed, it would greatly harm religious freedom and set a dangerous precedent for other constitutional protections.

Sincerely,

K HOLLYN HOLLMAN,
General Counsel.

Mr. Speaker, before I yield to our next speaker, the gentleman from Georgia in his opening remarks, you know, talked about our veterans in the context of rationalizing a vote in favor of this bill. So let me just talk for a second about our veterans.

One of the things that is particularly frustrating to so many of us on this side is that here we are, about to adjourn on Friday or Saturday, and we have not done what we promised to do for our veterans.

The Democratic leader, NANCY PELOSI, and almost every Democrat has sent a letter to President Bush complaining about his administration's record of underfunding the VA by at least \$9 billion over the last 6 years. And the budgets that he has submitted this year reduce veterans funding by \$10 billion over the next 5 years.

If we want to honor our veterans, then we should be debating and we should be enacting legislation to fund the VA, to give them the health care benefits and the protections that they

are entitled to, to making sure that we have a military construction bill that is adequately funded so the families of our veterans and our soldiers do not have to live in substandard housing.

□ 1100

It is frustrating. I mean, it takes my breath away that you waste the time of the Members of this House on something like this and you turn your back on the fact that we are underfunding programs to benefit our veterans.

You want to talk about veterans. Let us talk about veterans. And, Mr. Speaker, I submit for the RECORD at this point the letter that our Democratic leader and every Democrat has signed to the President complaining about his horrendous record in supporting our veterans.

200 HOUSE DEMOCRATS URGE PRESIDENT BUSH TO PROVIDE NECESSARY FUNDING FOR VETERANS' HEALTH CARE

WASHINGTON, DC.—House Democratic Leader NANCY PELOSI and 199 House Democrats sent the following letter to President Bush today urging him to provide the necessary funding for veterans' health care in his FY2008 budget.

Below is the text of the letter:

SEPTEMBER 25, 2006.

Hon. GEORGE W. BUSH, The President,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As your administration continues to formulate its FY 2008 budget submission, we write to request that you provide the necessary funding for the Department of Veterans' Affairs (VA) health care system and related benefits programs. Unfortunately, we believe it is necessary to express our serious concern in this matter due to your administration's record of underfunding the VA by at least \$9 billion over the last 6 years. We are particularly concerned about veterans funding next year and in the future as your budget submission this year reduced veterans' funding by \$10 billion over the next 5 years.

Providing for our military veterans and their families is a continuing cost of war and should be an important component of our national defense policy. Indeed, President George Washington recognized this point, saying, "[t]he willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive the Veterans of earlier wars were treated and appreciated by their nation." Mr. President, the time is right for your administration to change course and fully fund the VA, cease efforts to shift the costs of health care onto the backs of veterans, and finally recognize and implement the concept of 'shared sacrifice' with respect to the federal budget.

The wars in Iraq and Afghanistan along with the aging of our World War II, Korea and Vietnam War veterans have increased demand for VA services. However, year after year you request inadequate funding for veterans' health care. Each year your budget submission includes proposals to increase veterans' co-payments and fees, essentially taxing certain veterans for their health care. Each year your VA budget fails to request what is needed and relies on accounting gimmicks such as "management efficiencies" and inaccurate health care projections. Such efforts are transparent as the true consequences of your administration's budget flaws are being realized by current and future veterans. Indeed, recently VA officials

themselves acknowledged that greater funding was needed to care for our servicemembers returning from Iraq and Afghanistan suffering from mental health disorders and traumatic brain injuries.

Mr. President, during your tenure, health care waiting lines have increased, appointments and medical procedures delayed, more than 250,000 veterans have been turned away from entering the VA health care system, and disability and education claims backlogs have grown to unreasonable rates. Moreover, Congress has been forced to add billions of dollars in supplemental VA funding due to embarrassing funding shortfalls.

What we request of you and your administration is simple—provide funding in your FY 2008 budget submission to ensure that our servicemembers returning from Iraq and Afghanistan and the heroes from our previous conflicts receive the care and benefits they have earned and deserve.

Without question, Mr. President, the federal budget is a reflection of national policies and ultimately a reflection of our moral priorities. Please join us in working to provide the necessary resources in the fiscal year 2008 budget to fully fund the VA and to take care of our veterans and their families.

Sincerely,

NANCY PELOSI,
House Democratic
Leader.

LANE EVANS,
Ranking Member, Veterans Affairs
Committee.

198 HOUSE DEMOCRATS.

Mr. Speaker, I yield 6 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman from Texas has been an eloquent, true conservative on the question of the entanglement of religion and government, because he expresses what every religious leader ought to share, the distrust of government if it seeks to intervene in religious matters.

Religion needs no protection from government in this country. Yes, there are times when you may need protection if there are people trying to interfere physically with your right to worship, but in a free society like ours, religion flourishes independently. It does not need the government's stamp of approval. What theology says is that for religion to be freely practiced, the government has to say it is okay, the government has to put forward a symbol.

So my friend from Texas has expressed a true conservative vision, but he did not fully describe how flawed this bill is. I guess he could not fully understand the reasoning. He said that, even if you win to decide attorney's fees. No, only if you win. Let me read from the bill.

"Notwithstanding any other provision of law, a court shall not award reasonable fees and expenses of attorneys to the prevailing party on a claim of injury consisting of the violation of a prohibition against the establishment of religion brought against the United States."

Now, this is not the most actually honest piece of legislation I have ever seen. They describe some of what they are talking about: a veterans memorial, not a veterans cemetery. By the

way, there is no prohibition anyone has ever thought of the families of any veterans to put any religious symbol he or she wants on that grave, except there was an effort to block a victim who wanted to put the symbol on, but they prevailed as, of course, they have to under this theory not just of this bill but of freedom of religion.

But it says the Boy Scouts, a Federal building containing religious words, but it also says this bill shall include but not be limited to these examples. In other words, the examples are there because they kind of add a little spice to the bill because, understand what this bill would purport to do.

Any violation of the Establishment Clause, any activity by a State or a Federal agency to establish a religion, to favor a particular religion, this is not limited to signs in the cemetery. It says any violation of the Establishment Clause, if you win you do not get your attorney's fees.

Now, the gentleman from Georgia correctly said this bill does not take away rights. I understand that. I also understand that there is a lot of frustration on that side of the aisle that they cannot. They would like to take away the rights. This goes as far as they can diminishing them.

The gentleman says, well, the ACLU will be able to do it. Has he become an agent of the ACLU, Mr. Speaker? Is he interested in giving the ACLU a monopoly on bringing these lawsuits? I am not. Whether or not the ACLU is bringing the lawsuit is not determinative. What about the right of an average citizen who might disagree with the ACLU and who would not be able to pay the attorney's fees? And, again, it only applies if you win.

Now, I know people on the other side have had a phrase that they like in tort law called "loser pays." That may be controversial, but this one is a lulu. This is winner pays. Bring a lawsuit based on a blatant violation of the Establishment Clause, not limited to the examples here. It is what the language says. Bring a lawsuit against a State or a city or a county or the Federal Government that favors a particular religion, that says we are going to teach this particular religion's tenets in the school and win the lawsuit and get no money.

Well, now, obviously that is because they do not trust the courts. They think the courts cannot be given the freedom to do this. The United States Supreme Court consists of nine members, seven of them appointed by Republicans. Six, because I know they do not count Gerald Ford, Mr. Speaker. He is kind of suspiciously liberal by Congress Republican standards. But Ronald Reagan, George Bush and George Bush have appointed six of the nine justices.

Now, what this bills say is if the appointees of George Bush, George Bush and Ronald Reagan decide that there has been a clear-cut violation of the Establishment Clause, the person who

brought the lawsuit cannot get legal fees. It is probably right that the ACLU would not be retarded, but, as I said, I agree with the ACLU on many issues. I am not interested in promoting them a monopoly over litigation in the United States.

I want to address this notion, too, well, you have freedom of religion, not freedom from religion. That is a fundamental misunderstanding of the Constitution and history. People who came to this country, some of them were objecting to being forced to profess other religions or support other religions. Religious freedom means that your religious practice, whether it exists or does not exist, is none of the government's business. The notion that your right not to be religious does not exist is appalling to me.

The gentleman from Georgia said you have freedom of religion, not from religion. Agnostics, atheists, people whose religion you may not think worthy, they do not have freedom in this country? What kind of a distortion of the principle of freedom is that?

The notion that you do not have freedom from religion means, literally, I guess, that you can be told, okay, look, you have got to pick a religion, pick one; you cannot have none whatsoever. That is not the American Constitution.

What we have here is not going to pass, we understand that, and I have to say I do not fully agree with my colleagues when they lament the fact that we are wasting time. Because given the penchant of the majority for atrocious legislation, I would rather have them waste their time than use it on something that might become law. Because when they do make laws, they make bad ones. So wasting time is better.

Although I do find it very offensive that in defense of constitutional principles we once again have a closed rule. Democracy to them is a spectator sport. They want to look at it somewhere else, they want to watch it in other countries, but not practice it on the floor of the House. A closed rule on a fundamental matter of constitutional principle is an abomination.

Mr. GINGREY. Mr. Speaker, I yield 8 minutes to the gentleman from Indiana (Mr. HOSTETTLER), the author of the bill.

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

Mr. HOSTETTLER. Mr. Speaker, I was not intending to speak on the rule. I will be speaking a little later on the bill itself, as I am the original sponsor of the bill and have been since the 105th Congress, but I felt it necessary to clarify the discussion somewhat in that, as I have heard the discussion, it has focused on some issues that the bill does not cover, as well as does not discuss some of the issues that the bill is attempting to remedy.

First of all, the words from the gentleman from Texas suggested that this bill had to do with the first 16 words of the first amendment. That is not true.

The first 16 words to the first amendment say the following: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

It has been concluded that there are essentially two clauses to that portion of the first amendment. First is the so-called Establishment Clause and the second is the Free Exercise Clause. This bill addresses the issue of the Establishment Clause and the attorney's fees awarded as a result of cases brought regarding Establishment Clauses. It has nothing whatsoever to do with the Free Exercise Clause, the last portion of the gentleman from Texas' 16 words to the first amendment.

So with regard to free exercise cases, the Attorney's Fees Award Act of 1976 will still apply, and attorneys' fees will still be awarded with no alteration of the laws as a result of passage of this bill.

Secondly, the suggestion was that somehow Mr. Madison left the Constitution sterile with regard to the discussion of religion. Mr. Madison, who many claim to be the chief architect of the Constitution, I believe probably even including my friends from Texas and Massachusetts, included in the signatory clause two dates of reference for the United States Constitution's approval by the constitutional convention. When he said, "Done in convention by unanimous consent of the States present the 17th day of September in the year of our Lord, one thousand seven hundred and eighty-seven, and of the independence of the United States of America, the 12th."

So James Madison, chief architect of the Constitution, as well as the rest of the delegates who signed the Constitution, gave two dates of reference that every schoolchild should know, every public schoolchild, private schoolchild, home schoolchild should know, with regard to the discussion of the approval of the Constitution of the United States.

The delegates thought it was so important that these two dates be referenced that they ensconced them in the very wording of the Constitution. The first primary, most important, date of reference would be the 17th day of September, in the year of our Lord, one thousand seven hundred and eighty-seven. So the first date, the primary date of reference for the delegates of the constitutional convention as placed in the Constitution itself, was the birth of Jesus Christ.

The second important day, the secondary important day for the ratification of the United States Constitution was the day that was placed secondarily in the signatory clause, and that is the independence of the United States of America, the 12th. It had been since July 4, 1776, a little over 11 years since that celebration, and so

they were in the 12th year of the independence of the United States, the Declaration of Independence being effectively the birth certificate of the United States of America.

So there would be those on the other side, first of all, that would suggest that this bill has something to do with the free exercise of religion. It has nothing to do with the free exercise of religion. And some that would suggest that the Framers of the Constitution and the Founders of this country would somehow sterilize government from the very mention of religion.

Now, if someone today in the State of Virginia where Mr. Madison come from and Jefferson would suggest erecting a monument to the individual whose birth is the primary date of reference for the delegates for the approval of the United States Constitution to be later sent to the States for ratification would raise a life-size monument to that one individual, they would be sued by the ACLU. They would be sued by the ACLU, and the ACLU would come to those people and say, we are going to sue you, just like they did educators in the State of Indiana. And they would say, we are going to sue you and we are going to win, and when we win you will not only have to pay your attorney's fees but you will have to pay our attorney's fees, too, as a result of the Attorney's Fees Award Act of 1976 by erecting a monument to the individual's whose birth is celebrated in the United States Constitution.

Now, that case could go to court, but it probably would not. Because those county officials, those officials would have this sword of Damocles hanging over their head, meaning we are going to take you to court, and when we win, you will have to pay our attorney's fees as well.

The Public Expression of Religion Act would simply say let that case go to court, do not allow that sword of Damocles, that notion of intimidation to continue and let the case go to court.

The gentleman from Massachusetts says that we cannot trust the courts as conservatives. We do trust the courts, which is exactly what the Public Expression of Religion Act allows. It allows these cases to go to court. Whereas in many cases they do not go to court, and the gentleman from Georgia and others have given examples. They will go to court and will allow the cases to go to court, but that is exactly what the other side does not want to have happen because let us give recent experience.

In 2005, the United States Supreme Court came down with two decisions, the same day, on the first amendment to the Constitution, the Establishment Clause, and in those two decisions, they said that the Ten Commandments posted on public property, public property paid for and maintained with government dollars, was constitutional in the State of Texas. Then they said, on the same day, in a different case, they

said the public display of the Ten Commandments on government-funded, government-maintained property in Kentucky was unconstitutional. Constitutional in Texas, unconstitutional in Kentucky. I think the Ten Commandments were pretty well the same. They are pretty well the same wherever you read them, but in Texas it was constitutional, and in Kentucky it was unconstitutional.

What the other side does not want to have happen is for these cases to actually go to court. Because if they go to court, it is likely with the new makeup of the United States Supreme Court that had those two cases come out of that Supreme Court, the Texas case would have probably been a 6-3 majority in favor of maintaining the Ten Commandments in Texas and a 5-4 majority in maintaining the Ten Commandments in the State of Kentucky.

This is an issue of allowing the cases to go to court and not to have the threat or intimidation by the ACLU and their minions to hang over all of these heads.

□ 1115

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

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

Mr. FRANK of Massachusetts. Well, I would ask the gentleman, he says he is not for keeping these things from going to court. Am I incorrect, I had thought that the gentleman from Indiana, when we were on the committee together, before I took leave and on the floor, had supported legislation in the area of church and state taking jurisdiction away from the courts.

Would the gentleman reconcile for me his support of legislation that would remove jurisdiction from the Federal courts, in many cases, with his support for letting the cases go to court?

Mr. HOSTETTTLER. Taking back my time, because in both cases the United States Constitution grants Congress the exclusive explicit authority to do those things, and that is why I am saying this is the exclusive authority of the United States Congress. We have that authority. We do not have to be in one particular area allowing the court to consider cases. In other cases, we can allow the cases to go to court. That is what the legislative process is about.

And the gentleman has heralded the idea of democracy and the legislative process. Today, we continue to exercise that.

Mr. MCGOVERN. Mr. Speaker, I yield the gentleman from Massachusetts (Mr. FRANK) 3 minutes.

Mr. FRANK of Massachusetts. Well, Mr. Speaker, the gentleman from Indiana did not reconcile the position. He said, we are Congress, and if we want to take these cases away, we can. I understand that, but that is not consistent with saying they ought to go to court.

Secondly, there are two parts to this bill. One says you should not have

monetary damages. That is relevant to his argument about intimidation. But the other section says if you bring a claim based on a violation of the establishment clause, no matter how blatant, if a county or city or any other government entity formally prefers one religion over others, one denomination over others, and provides funding for that, if you bring a lawsuit challenging that and you win, you don't get attorneys fees.

And the answer again is, well, the ACLU can do it. Again, I am not letting only the ACLU be involved here. And that has nothing to do with intimidation of the county. The question is, and, again, it is only if you win. Let me read what it says: "No court shall not award reasonable fees and expenses to the prevailing party on the claim of injury consisting of the violation of a prohibition of the establishment clause."

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Indiana.

Mr. HOSTETTTLER. And I can understand that concern, but let me remind you that the awards act came in 1976. In 1962, the United States Supreme Court struck down the notion of school prayer without the attorneys fees award act. In 1963, the Supreme Court struck down Bible reading in public schools, without the attorneys fees award act. This bill will simply allow the cases to actually continue to go to court.

Mr. FRANK of Massachusetts. That is just nonsense, Mr. Speaker. Absolute nonsense.

There is nothing that keeps the county or the city from defending because the other side will get attorneys fees. The gentleman is trying to collapse a couple of things. The threat of monetary damages arguably would keep you from going to court, but a denial of attorneys fees to an individual plaintiff who does not happen to have an organization, that is not the fact that the other side may get attorneys fees if they win.

And, remember, the gentleman suggested that people were being deterred from bringing lawsuits that they could win, or defending lawsuits they could win by the threat of what would be the expense. But in this case, you only get the fees if you win. This only denies successful plaintiffs the fees.

So that is what this bill does. It has nothing to do with keeping it from going to court. It is trying to discourage things from going to court. I guess what they say is, you can't bring such a lawsuit unless you get the ACLU. If you are an individual that has a different theory about this, and you don't have the money for an attorney, you can't go to court. And the gentleman said, well, that is whatever happened before the 1976 act. Singling out one class of cases for the denial of attorneys fees when every other one gets them does seem to me an odd way to

run a constitution. This right and that right.

And, by the way, no one should think that if this ever became law, which, of course, no one thinks it will, that it would stop here. There would be other unfavored rights where a minority would be at risk, where you would be denied legal fees. So let's not collapse two issues. This has no deterrent effect, the part about attorneys fees. It is an effort on the other side to keep people out of court in case they might win.

Mr. GINGREY. Mr. Speaker, I yield an additional 2 minutes to the gentleman from Indiana for the purpose of clarification and response to the gentleman from Massachusetts.

Mr. HOSTETTLER. The gentleman from Massachusetts concluded his remarks by saying this is going to keep people out of the courts. In fact, the precedent is just the opposite. In 1962, in *Engel v. Vitale*, the United States Supreme Court said, 14 years before the attorneys fees award act was put into place, that the state sanctioning of prayer in public schools was unconstitutional. In 1963, 13 years before the attorneys fees award acts came into play, the United States Supreme Court held it was unconstitutional to have Bible reading in public schools.

This will not change anything from what happened before this law was created that we are amending today. The same things will happen. And this bill, most importantly, does not remove injunctive relief. If it is the desire of the plaintiff to stop an activity or to remove a monument or remove a display, this bill does nothing to stop that from taking place. The injunctive relief available in all of these cases continues to be available in establishment clause cases.

And, in fact, the court can say, remove the monument, stop the practice. This bill does not change that, and I want to make that clarification.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

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

Mr. FRANK of Massachusetts. Well, I appreciate this eloquent defense of his bill that it doesn't do very much, but I do question that. And I understand your concern about monetary damages; but if the restriction on attorneys fees only for the party that wins in a case doesn't do anything, what is it in here for?

Mr. HOSTETTLER. And that is perfect, so the gentleman can support my bill. I appreciate that, which is why it does something very important, which is why the gentleman and his cohorts are opposing the bill, because they understand that by removing the chilling effect on these closed-door sessions with county commissioners, with schoolteachers, with mayors and the like, without that ability for the ACLU and others to go into these closed-door sessions and say, Mayor, we are going to sue you, we are going to win, and you are going to have to pay our attor-

neys fees, that without that chilling effect, these cases will go to court.

Mr. MCGOVERN. Mr. Speaker, I yield an additional 1 minute to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. I feel like I am in Dickens, the artful dodger is apparently about to leave.

I repeat the question: If banning attorneys fees from people who win a lawsuit based on a blatant violation of the establishment clause, which this bill does, doesn't do anything, what is it in there for? Is it just an expression of dislike for people who happen to enforce a part of the Constitution that people on the other side don't like? What is it in there for?

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Indiana.

Mr. HOSTETTLER. From the gentleman's perspective, because of the benign nature and virtual nonutilitarian nature of the bill, please support it.

Mr. FRANK of Massachusetts. Would the gentleman please answer the question? He asked me to yield. Why are you banning attorneys fees from people who win a lawsuit based on a blatant violation of the establishment clause? Why are you doing that?

Mr. HOSTETTLER. Because a blatant violation is determined by a court of law.

Mr. FRANK of Massachusetts. But the gentleman is for letting it go to court, I thought.

Mr. HOSTETTLER. We are letting them go to court. That is exactly right, we are going to let them go to court. A blatant violation is determined by a court of law and not by ACLU attorneys behind closed doors.

Mr. FRANK of Massachusetts. And only under this bill, if you bring a lawsuit and you win, and the court decides that you are correct and there was a blatant violation of the establishment clause, you don't get your attorneys fees, and I still don't understand why.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, let us be clear, there is nothing benign about this bill. This bill makes it more difficult to enforce the first amendment to the Constitution and the very words thereof designed to protect religious freedom of every measurement.

I want to thank my colleague from Indiana, who is leaving at the moment, for clarifying the point that this bill now is only intended to make it more difficult to enforce the first 10 words of the Bill of Rights rather than make it more difficult to enforce the first 16 words of the Bill of Rights.

But let me express a very heartfelt difference of opinion. When the gentleman said this bill has nothing to do with the free exercise of religion, nothing could be further from the truth. That is why Mr. Jefferson and Mr. Madison and our Founding Fathers

built in, embedded, into the foundation of the Constitution the principle that we want to keep government out of our houses of worship and out of our personal faith.

The greatest single threat to the free exercise of religion is government. And if the gentleman doesn't believe that, then I would suggest he denies history.

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

Mr. EDWARDS. I will be glad to yield to the gentleman if he can name me one nation anywhere in the world today that has more religious freedom than the United States of America because it allows government intervention into houses of worship and peoples private religious affairs. Can the gentleman name one nation?

Mr. HOSTETTLER. I cannot name one. Will the gentleman yield for a discussion?

Mr. EDWARDS. I didn't think you could.

Mr. HOSTETTLER. First of all, Mr. Jefferson was in France during the approval process of the Bill of Rights.

Mr. EDWARDS. Let me take back my time, because that is misleading. Mr. Jefferson and Mr. Madison debated for 10 years in the Virginia legislature the principle of church-state separation, and it was absolutely the core idea behind the 16 words of the Bill of Rights. So while he was in France, to suggest that Mr. Jefferson didn't endorse this principle is wholly wrong, evidence of which is Mr. Jefferson's letter to the Danbury Baptists in 1802 where he didn't just endorse this principle, he said he considers it with "sovereign reverence."

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

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

Mr. FRANK of Massachusetts. Historically, I know the gentleman from Indiana previously had a location issue on Mr. Jefferson, but he was in France during the debate on the Constitution. You said he was in France during the debate on the Bill of Rights. I don't think that is accurate. I know there were slow boats then, but I think he had gotten back by that time.

Mr. HOSTETTLER. He was not in France during the ratification by the States of the Bill of Rights, but he was in France during the approval by the Congress of the Bill of Rights, which took place 2 years prior.

Mr. EDWARDS. Taking back my time, if the gentleman is trying to suggest that Thomas Jefferson didn't endorse the principle of church-state separation, I would remind my colleague it was Thomas Jefferson who was the first American to use the term "wall of separation between church and state."

I would reiterate my key points.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

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

Mr. FRANK of Massachusetts. I thank the gentleman. History gets misused and used as a tool, but I think one

thing is very clear. The people who are pushing this, had they been contemporaries of Thomas Jefferson wouldn't have been great fans of his.

Mr. MCGOVERN. Mr. Speaker, how much time do I have left?

The SPEAKER pro tempore (Mr. BOOZMAN). The gentleman from Massachusetts has 1½ minutes remaining.

Mr. MCGOVERN. I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I think it does disservice to the importance of this issue of religious freedom that out of 435 Members of the House, we are debating it in 1 hour, something Mr. Madison and Mr. Jefferson spent 10 years debating in the Virginia legislature. We are debating this in 1 hour, with 4 or 5 Members of the House on this floor. I think that, frankly, in my book, is a sacrilege.

There is no greater principle in American democracy than religious freedom. It is the first freedom upon which all other freedoms are built. If one thinks government involvement in religion protects religious freedom, then I would suggest you vote for this ill-advised and dangerous piece of legislation. If one agrees with our Founding Fathers, with the Bill of Rights, the first 16 words thereof, with Mr. Madison and Mr. Jefferson, that the greatest threat to religious freedom in this world is government intrusion into religion, I would suggest you vote "no" on this legislation.

This legislation is a direct effort to make it more difficult to enforce the Bill of Rights, and that is wrong. That is why we should vote "no."

Mr. GINGREY. Mr. Speaker, I have no other requests for time, and I reserve my time for the purpose of closing.

Mr. MCGOVERN. Mr. Speaker, let me thank the gentleman from Massachusetts and the gentleman from Texas for making clear what this bill is trying to do, which is to undermine the Constitution. It is frightening to see what could potentially happen should the other side gain seats in the next election.

I also think it is frustrating and I think it is offensive that we all know this bill is going nowhere and that we are taking our time up debating this when we should be debating ways to improve the quality of life for our veterans and raising the minimum wage and a whole bunch of other things.

One final thing. We have heard the word democracy mentioned several times over there. All the rules in this Congress that have been reported out by the Rules Committee, with the exception of appropriations bills, have been closed, with the exception of one bill. It is about time we had a little democracy in this House of Representatives.

If you respect the Constitution and you respect this institution, we need to have a different process.

Mr. GINGREY. Mr. Speaker, in closing, I want to once again thank Mr.

HOSTETTLER for sponsoring the Public Expression of Religion Act and Chairman SENSENBRENNER for bringing this legislation to the floor.

Mr. Speaker, the principles of life, liberty, and property make up the foundation of our constitutional Republic. Under liberty, we are guaranteed the freedom to worship as we please, a freedom that should be protected and not taken for granted. The freedom of religion is one of the positive social institutions in our country, and we should encourage this constitutional protection throughout the world.

□ 1130

Almost every State in the Union has chosen to acknowledge God within its State constitutions. However, too often today, overzealous courts have infringed upon an individual's right to worship. Courts have attempted to ban holiday decorations reflecting religious traditions such as Christmas carols or Hanukkah songs from school events. Federal courts have demanded the removal of the Ten Commandments from courthouses across our country, sought to remove the words "in God we trust" from our currency, as well as remove emblems from State seals, flags and logos.

As I stated earlier, these attacks on our religious heritage are frivolous and unwarranted. For every decision a court makes, there are countless out-of-court settlements and even more pending lawsuits aimed at removing anything that acknowledges a divine authority.

The debate over religious freedom is old and contentious, but it should be fair. When organizations like the ACLU are rewarded, rewarded, for filing lawsuits, it is not a fair debate. Congress needs to close that loophole, to restore impartiality to our system of justice, and it needs to act on preventing frivolous lawsuits. H.R. 2679, the Public Expression of Religion Act, will help protect the freedom of religion, restore impartiality and reduce lawsuits.

So, Mr. Speaker, I ask my colleagues to support this rule and support the underlying legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered. The SPEAKER pro tempore. The question is on the resolution.

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

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

The yeas and nays were ordered. The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION OF S. 403, CHILD CUSTODY PROTECTION ACT

Mr. GINGREY. Mr. Speaker, by direction of the Committee on Rules, I

call up House Resolution 1039 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1039

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (S. 403) to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions. The amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The bill, as amended, shall be considered as read. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to commit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. GINGREY) is recognized for 1 hour.

Mr. GINGREY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 1039 is a closed rule which allows one hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. It waives all points of order against consideration of the bill, and it provides that the amendment in the nature of a substitute printed in the Rules Committee report shall be considered as adopted. Finally, the rule allows one motion to recommit, with or without instructions.

Mr. Speaker, before we begin debate on the rule for S. 403, the Child Custody Protection Act, I want to refresh the memories of some of my colleagues and offer historical context to Members who were not here in early 2005.

Last year, on April 27, I sponsored and managed a rule to consider H.R. 748, the Child Interstate Abortion Notification Act. This rule passed by a vote of 234-192, including the support of eight Democrats. Two Democratic amendments were considered and failed by a recorded vote. No Republican amendments were considered to H.R. 748, and the legislation passed by a vote of 270-157, which included the support of 54 Democrats.

Mr. Speaker, I once again rise in support of the Child Interstate Abortion Notification Act. However, this time we will consider the legislation passed by our colleagues in the Senate. S. 403 passed the Senate by a vote of 65-34 two months ago, and it is a very close facsimile to H.R. 748. Indeed, it is almost identical to the House bill.

So, as I begin my remarks, I would like to recognize and thank Representative ILEANA ROS-LEHTINEN for her dedication and leadership not only on