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TITLE: CALIFORNIA DESERT PROTECTION ACT OF 1994

TEXT: Text that appears in UPPER CASE identifies statements or insertions which are not spoken By a MEMBER of the Senate on the floor.

[*H5668]

The SPEAKER pro tempore (Mr. Visclosky). Pursuant to House Resolution 422 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H. R. 518.

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IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 518) to designate certain lands in the California Desert as **wilderness,** to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes, with Mr. Peterson of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, July 13, 1994, the amendment offered by the gentleman from Ohio (Mr. Traficant) had been disposed of, and title VII was open to amendment at any point.

Are further amendments to title VII?

AMENDMENT OFFERED BY MR. THOMAS OF WYOMING

Mr. THOMAS of Wyoming. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Thomas of Wyoming: Add the following: Sec. 801. Within one year of acquiring any non-Federal land or interest therein for any purpose of this Act, the Secretary shall dispose of all right, title, and interest in and to a quantity of Federal lands equal in value to the non-Federal land or interest acquired, as determined by the Secretary. The Secretary shall not dispose of any **wilderness** areas, **wilderness** study areas or lands owned by the National Park Service for the purposes of this section.

Mr. THOMAS of Wyoming. Mr. Chairman, I am presenting this amendment in behalf of the gentleman from Texas (Mr. DeLay) who had it prepared and, I think, presented it at previous times. I also have had a bill that would do exactly the same thing. It is quite a simple proposition

actually. It says, if we are to acquire additional Federal lands, that we ought to dispose of nonessential Federal lands in equal value, and it seems to me to make a great deal of sense.

In the case of the California **wilderness,** Mr. Chairman, it has application. There is in the bill a field of, perhaps, $ 100 to $ 300 million that would be needed for the acquisition of land; a substantial amount of land would be acquired, mostly inholdings within the proposed acquisitions by the Federal Government. Some 700,000 acres of private land and private holdings would need to be acquired to accomplish the mission of the park as now set forth in the **wilderness** area.

Actually, Mr. Chairman, 28 percent of the property, real property, in this country belongs to the Federal Government; in the case of California, some 44 percent belongs to the Federal Government. Certainly in the West, in my home State of Wyoming, some 40 percent. These, of course, are not all lands such as Yosemite or Yellowstone National Park. These are lands that are, for the most part, managed by the Bureau of Land Management. They are lands that are residual lands that were left after the homesteading was taken up, and, as a matter of fact, the early organic act of the Bureau of Land Management said specifically that the bureau was to manage them pending disposal. It was never the notion that these lands were to be held. They have no particular unique characteristics such as **wilderness,** such as parks, which are not involved in this tradeoff.

So, Mr. Chairman, the hope here of this amendment is that, when lands need to be acquired to accomplish the goals of this particular, that lands of equal value that are not set aside or withdrawn could be disposed of, and that, No. 1, it would have something to do with the cost. It would reduce the cost, which I think is quite necessary in that we do have $ 7 to $ 9 billion of unfulfilled needs in the parks and in the Federal lands that we have now. I think it is also a concept that is acceptable. These lands are not there for any particular purpose, and there is no arguable reason why the Federal Government should maintain them.

So this amendment would simply say that when private lands need to be acquired to accomplish the goals of this particular bill, Mr. Chairman, that Federal lands of equal amount would be disposed of, and I appreciate this opportunity to explain the amendment.

Mr. MILLER of California. Mr. Chairman, I wonder if we might get a unanimous-consent agreement to limit the time of debate on this amendment to 15 minutes which would give us each 71/2 minutes after the author of the amendment has spoken.

The CHAIRMAN. Does the gentleman's unanimous-consent request to limit the time for debate on this amendment include the amendment and all amendments thereto?

Mr. MILLER of California. Yes, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. HANSEN. Mr. Chairman, reserving the right to object, we have no objection to the gentleman's proposal. But may I ask, who would control the time on this?

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield, the time would be equally divided, 71/2 minutes to be controlled by myself and 71/2 minutes to be controlled by the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I will draw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Miller) for 71/2 minutes.

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Wyoming (Mr. Thomas) because I think it is a bad amendment, and it is for this reason:

We should not be making decisions on the disposal of the acquisition of land unevenly balanced out. What this amendment says is that for equal amount, an equal amount of land that we would acquire, we would dispose of that land somewhere else, and I assume that that has to be done in the same timeframe. What that means is that, when we are ready to acquire land, we would have to wait until disposal of land somewhere else takes place.

Also this does not limit this to the State of California. This means, if we were to go out and acquire 100,000 acres in the State of California, we could require that this amendment would require the disposal of land, of maybe a [*H5669] hundred thousand acres in Wyoming, or 25,000 acres in Wyoming, 25,000 acres in Oregon, without regard to the interest of those individuals in that area. We are already hearing from numerous communities that do not want this land back because they cannot police the land, they cannot take care of the land, but, if we acquired a hundred thousand acres in the Mojave, we could dump a hundred thousand acres onto other communities in other States and other areas without regard to those communities because we deem it important to be there. The fact is also that this has nothing to do with the acquisition powers, priorities or the power. This is an amendment that was rejected overwhelmingly last year by a vote of 379 to 49 because it simply does not make sense on its face.

Mr. Chairman, we just completed some hearings in the West where people were concerned about what would happen if we started to pull out of these lands. Who would patrol them? Communities do not have the police force. They do not have the health and sanitation facilities. They are not able to cope with these lands, and all of a sudden they would be within their county jurisdiction and in the State jurisdictions. Who would they be ceded to in that kind of authority? To say that we are going to cede these lands because we have a high priority acquisition in the Everglades, or anywhere else, or in the east Mojave, or Yosemite, or any of these other areas, is simply a mindless approach to the disposal of Federal land. That does not mean that we should hold onto all Federal land. That does not mean that we should not reconsider the classifications of Federal lands and whether or not decisions that were made 5 years ago, 10 years ago and 100 years ago we ought to be living with today. But we ought not to say that the acquisition of lands, perhaps to save it from some detrimental use, that that should force the disposal of lands somewhere else, because the two acts are not equivalent acts, and I think that is why the House overwhelmingly rejected this amendment the last time out, and I find it interesting that this disposal could take place anywhere else, and yesterday amendments were offered to reject these kinds of actions only to California.

I also do not know if this means, if we acquire land by acquisition, as opposed to an outright, willing seller/willing buyer purchase.

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So the amendment is poorly drawn. It is ambiguous. But, more importantly, it has nothing to do with the real world of trying to acquire and dispose of lands. Both of those are very controversial acts, and what this is an effort to try to keep the acquiring portion from taking place because some other community or some other part of the country will raise an objection to getting land dumped onto them, with the cost of that acquisition, and thwart efforts to try to acquire lands for the protection of the Mojave and other Federal assets.

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

Mr. MILLER of California. I yield to the gentleman from California.

Mr. LEHMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to point this out. Maybe some Member on the other side could clarify this, but as I read the amendment, if someone were to offer property for park purposes to the Government as a gift, in order to accept that gift, we would then be required to surrender Federal landholdings somewhere else. So it would in effect inhibit that kind of transaction from taking place. It certainly should not apply in circumstances like that, but that is the manner in which the amendment is drawn at the present time.

Mr. MILLER of California. Mr. Chairman, the gentleman makes a very good point, because it is a simple acquisition of land. It is not acquisition by purchase. It is acquisition by apparently gift or exchange. So if somebody has a time problem and they want to get rid of a property in an estate or they want to make a gift before they die, or what have you, we could lose the access to those assets because we do not have the ability to trade out a like value in a like piece of property. It would be a terrible mistake and a squandering of the opportunities this Government has to protect some of the most vital natural resources in the country.

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

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this is interesting. It is interesting that there is a basic concept here-and the gentleman from California defends this idea-that the Federal Government is the only one that should own and control land, the only one that has the ability to manage. It is just very interesting to me that the Federal Government has the only people we can imagine who can manage these kinds of BLM lands. It is amazing to me.

The other point is that it does not matter how it is acquired, if you believe that maybe there ought to be some limit to the amount of Federal ownership. Now, of course, if one's notion is that the Federal Government ought to own everything, then that makes it quite different. But regardless of how it is acquired, if you believe in the concept that there is a limit to how much the Federal Government ought to own, then this does make sense. If you do not, then, of course, it does not make sense.

Mr. Chairman, let me yield 3 minutes to my friend the ranking Republican member, the gentleman from California (Mr. Lewis).

Mr. LEWIS of California. Mr. Chairman, I appreciate very much my colleague's yielding time to me.

Mr. Chairman, as a Member who represents both Inyo and San Bernardino counties in California, let me say that Inyo has in excess of 95 percent federally-owned land, and, much of the land in San Bernardino County, well over 80 percent, is federally owned land.

So it strikes me as rather strange to have territory that involves just in my desert area alone enough territory to put 4 Eastern States in. Yet, as the chairman of the committee suggests, there is not very much land we can afford to get rid of.

It was not so long ago that the Federal Government had signs out by the roadside asking people to come and take sections in 40-acre parcels of land. They recognized that they cannot manage these millions of acres they are controlling.

The arguments of Chairman Miller and, I presume, of the author of this odious measure, the gentleman from California (Mr. Lehman), would suggest that this amendment would result in the selling of cherished national treasures like the Shenandoah National Park in Virginia, the Rocky Mountain National Park in Colorado, or even the Great Smoky National Park in Tennessee.

This amendment is designed in a fashion to be very careful about that. It does involve land that would be **wilderness** land or **wilderness** study areas or parkland. That would not be covered by this amendment. Instead, it suggests to the Secretary that somewhere within that huge inventory of millions and millions of acres we ought to be getting rid of as much property as we are arbitrarily taking in.

There is a philosophy around here reflected in our committee and, I am afraid, reflected by this Secretary that more is better, the more land the Federal Government controls and owns, the better. We are suggesting that perhaps it would be simply a good idea, as people are about the process of trying to expand the Federal largesse, that there ought to be a trading of equally valued lands so we can get it back on the property tax rolls, so we can support government in a way that makes sense instead of continuing to build a national deficit.

This amendment is a very sensible, very logical amendment, and it is about time the Congress took back some authority and gave some direction to that Federal bureaucracy that wants nothing but more and more and more from our American property owners and taxpayers.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield 11/2 minutes to the gentleman from California (Mr. McCandless).

Mr. McCANDLESS. Mr. Chairman, I thank my colleague for yielding time to me.

Mr. Chairman, my colleague touched very briefly on what I consider to be a [*H5670] critical element of this ownership aspect of government.

In Riverside County, approximately 65 percent of the total land mass is owned by the Federal Government or by some other government on a level at which they do not pay taxes.

Now, in California the State and local governments-and we know about the Federal Government-are having all kinds of problems meeting their debts and meeting their obligations to the people. Now we are saying, "All right, let's continue to increase the stock of Federal land at the expense of State and local governments," the prime source of their revenue being related to land values and land taxes in the form of property that is improved or not improved.

I have a lot of problems with this, I must say, the fact that we continue to absorb property and continue to absorb these obligations.

Another point that I would like to make is that these properties are a direct financial drain upon the Federal Government in that, in Riverside county and other counties where there is a large percentage of National Forests, or other federal lands, the Federal Government compensates the local county for the loss of tax revenue on that land. Now, if we continue to add to this land, we continue to reduce what it is that people in these jurisdictional areas can receive in the way of property tax, and we increase what the Federal Government then pays these localities for what these Federal lands are worth.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. Pombo).

Mr. POMBO. Mr. chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I am one of the fortunate Members from California whose district is not owned by

the Federal Government. I, like the chairman of the Committee on Natural Resources, have a district that is very low in Federal ownership. But we are at the point right now where over half of California is owned by one government agency or another, and I strongly support this concept that if the Federal Government is going to take over more land, they should have to divest themselves of land to make up for it, for a number of reasons, the main reason being that I think the Federal Government owns too much land already.

Constitutionally, the Federal Government is limited as to what land it can own, and when other States were brought into the Union after the original Thirteen, they were guaranteed the same rights that the original Thirteen States had. One of those rights was that the Federal Government would divest itself of its large land ownership. Somehow that was forgotten when we got west of the Mississippi because most of the land west of the Mississippi is land that the Federal Government owns.

Mr. Chairman, I think it would be a very important and a very good idea to force the Federal Government to give up as much as it is buying so that we can maintain private property in this country.

Mr. THOMAS of Wyoming. Mr. Chairman, may I inquire, how much time do I have remaining?

The CHAIRMAN. The gentleman from Wyoming (Mr. Thomas) has 1 minute remaining, and he has the right to close debate.

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Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Let me just say, this is not about whether or not we believe the Federal Government should own more lands or less lands. This is once again whether we want to impose on the Federal Government the kinds of restrictions we would never impose on the private sector.

We have all heard from our constituents, "Why don't you run the government like a business?"

Let me tell Members, no real estate firm worth its salt, no family worth their salt would say, if we acquire a duplex, we have to get rid of something else here. They would say, let us figure out how we can get the best deal for ourselves.

In this case how do we get the best deal for the taxpayers? We have to be able to dispose of land on an orderly basis. We ought to be disposing of land. We ought to be able to acquire land on an orderly basis and to try to get the best deal. If people know that we have to get rid of this, the price goes down. The advantages that we seek, the exchanges that we can bring about, it changes the entire marketplace.

None of my colleagues would suggest this for their local government, for their State government, for the private sector. But somehow they do not care what happens to the Federal Treasury.

When we have got to get rid of Federal assets, we have to put them in a forced sale because people know that time is running out on this end of the bargain or somebody wants to give us land so we have got to get rid of this, what does the buyer say, "Come to me; lower your price; maybe I will take it off your hands."

We would never do that in the private sector. That is how we create deficits. We keep operating in a fashion where we buy high and sell low. We keep operating in a fashion where we force onto the market assets that we do not need to get rid of.

We just went through this with the S&L's. We have gone through this time and again with the

management of these properties.

We owe it to the taxpayers to try to get the best deal at any given time and not have forced upon us the disposal of or the management of assets beyond what the marketplace will dictate and what the needs of the various parties dictate.

This is an artificial move to get rid of land without regard to the taxpayer, because we cannot take advantage of any situation that comes up anywhere in the country unless we can immediately get rid of the same amount of land.

This also suggests that the Department should never get rid of any land until it does have an acquisition. So they cannot independently go out and dispose of that land base because it does not make sense anymore. They better hold on to it until sometime when they can work it to their advantage.

We have to reject this amendment as we rejected it last year. We rejected it overwhelmingly in the last Congress because it simply makes no sense for the Treasury. It makes no sense for land management. It makes sense for the Department and for the acquisition of valuable natural assets in this country.

I hope that we would reject the amendment.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself such time as I may consume.

I just have to say, the gentleman makes an eloquent statement. I do not disagree with him. The only fact is that it does not work.

We have gone on all these years and not disposed of anything. We can talk all we want to about it. The fact is that we keep acquiring more.

Mr. Chairman, I yield the balance of my time to the gentleman from Utah (Mr. Hansen).

The CHAIRMAN. The gentleman from Utah (Mr. Hansen) is recognized for 45 seconds.

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

Mr. HANSEN. Mr. Chairman, this Nation was founded upon the idea that there is a whole big nation here and nobody owns any ground. The thirteen Colonies came along and others came along and started saying, this is ours, and they decided it is up to the States. And before long did we find any Federal ground in Massachusetts? Did we find any Federal ground to speak of in New York or any of these Eastern States? Nothing to speak of, infinitesimal amounts in these States.

Yet as we went West all kinds of Federal ground was there. We did not have any people out there so little by little we can ask ourselves this question, where did the Federal ground go that was back here? It all seems to be in the West; 28 percent of America is owned by the Federal Government.

We know how Oklahoma got theirs. They have somebody shoot off a gun and the man that had the fastest horse got the best land.

Now, all we are saying is, instead of buying more ground out there and more regulation and more problem, we are asking that it be limited. I think the gentleman from Wyoming came up with an excellent amendment. [*H5671]

Mr. Chairman, I thank the gentleman for yielding time to me, and I ask support of this amendment.

MR. VENTO. MR. CHAIRMAN, I RISE IN OPPOSITION TO THIS AMENDMENT.

THE AMENDMENT IS NEITHER NECESSARY NOR DESIRABLE. IT WOULD REQUIRE THE UNITED STATES TO DISPOSE OF LANDS EQUAL IN VALUE TO ANY LANDS OR INTERESTS ACQUIRED FOR ANY PURPOSE OF THE CALIFORNIA DESERT PROTECTION ACT.

THE AMENDMENT DOES NOT SPECIFY THAT DISPOSALS WOULD BE OF LANDS IN CALIFORNIA, SO EVIDENTLY THEY COULD BE OF ANY INTERIOR DEPARTMENT LANDS IN ANY STATE.

THE AMENDMENT IS NOT WORKABLE. IT SAYS THAT "WITHIN ONE YEAR OF ACQUIRING ANY * * * LANDS OR INTERESTS * * * THE SECRETARY SHALL DISPOSE" OF ANY EQUAL VALUE OF LANDS. WHAT HAPPENS IF THAT CANNOT BE DONE WITHIN THAT TIMEFRAME? DOES THAT MEAN THAT A DISPOSAL MUST BE COMPLETED, OR MERELY A CONTRACT FOR A DISPOSAL HAS BEEN CONCLUDED?

THE AMENDMENT WOULD PROHIBIT DISPOSALS OF **WILDERNESS OR WILDERNESS** STUDY LANDS, OR LANDS OWNED BY THE NATIONAL PARK SERVICE. OF COURSE, THE NATIONAL PARK SERVICE DOES NOT OWN LANDS-THEY MANAGE SOME OF THE LANDS OWNED BY THE AMERICAN PEOPLE, THAT ARE FEDERAL PROPERTY-BUT I ASSUME THAT THE MEANING IS THAT THERE ARE TO BE NO DISPOSALS OF LANDS THAT ARE MANAGED BY THE NATIONAL PARK SERVICE.

HOWEVER, THE AMENDMENT DOES NOT PROTECT OTHER CATEGORIES OF FEDERAL LANDS. SO, PRESUMABLY, THE AMENDMENT WOULD REQUIRE DISPOSALS OF LANDS FROM THE NATIONAL WILDLIFE REFUGES OR BLM-MANAGED PUBLIC LANDS, OR POSSIBLY NATIONAL FOREST LANDS AS WELL.

AND, THE AMENDMENT DOES NOT REQUIRE THAT THESE DISPOSALS BE BY SALE-SO, READY STRICTLY, THE AMENDMENT MIGHT REQUIRE THAT FEDERAL LANDS BE GIVEN AWAY IN ORDER TO SATISFY THE DISPOSAL REQUIREMENT-EVEN IF IN FACT TAX DOLLARS HAD BEEN SPENT TO ACQUIRE THE LANDS.

SO, THIS IS A VERY BADLY THOUGHT-OUT AND VERY UNWISE AMENDMENT.

IT IS UNNECESSARY. IF THE AMENDMENT IS SUPPOSED TO BE A SOLUTION, IT IS A SOLUTION IN SEARCH OF A PROBLEM.

THE AMENDMENT SEEMS TO REFLECT A CONCERN THAT THE FEDERAL GOVERNMENT IN RECENT YEARS HAS BEEN ACQUIRING MORE AND MORE LAND.

IN 1992, THE SUBCOMMITTEE LOOKED INTO THE QUESTION OF WHETHER THERE HAD BEEN A SIGNIFICANT INCREASE IN FEDERAL LAND OWNERSHIP. WE FOUND THAT IN FACT THE EXTENT OF FEDERAL LAND HOLDINGS HAS NOT BEEN INCREASING-IT HAS BEEN GOING DOWN.

WE REVIEWED THE INFORMATION ON FEDERAL LAND OWNERSHIP THAT IS REGULARLY COMPILED AND REPORTED BY THE BUREAU OF LAND MANAGEMENT. THE BLM'S REPORTS SHOW THAT IN FISCAL 1979 THE NATIONAL GOVERNMENT OWNED ABOUT 32.48 PERCENT OF THE LAND IN THE UNITED STATES, BUT BY FISCAL 1989-THE MOST RECENT DATA AVAILABLE-THE TOTAL HAD DECREASED TO ABOUT 29.15 PERCENT.

THE DATA FOR INDIVIDUAL STATES ARE SIMILAR: THEY SHOW THAT OVER THE DECADE-ALASKA WENT FROM OVER 89 PERCENT FEDERAL OWNERSHIP TO ABOUT 68 PERCENT; NEVADA WENT FROM OVER 86 PERCENT FEDERAL OWNERSHIP TO ABOUT 82 PERCENT; IDAHO WENT FROM OVER 63 PERCENT FEDERAL OWNERSHIP TO ABOUT 62 PERCENT; OREGON WENT FROM OVER 52 PERCENT FEDERAL OWNERSHIP TO ABOUT 48 PERCENT; COLORADO WENT FROM

OVER 35 PERCENT FEDERAL OWNERSHIP TO ABOUT 34 PERCENT; AND, MONTANA WENT FROM OVER 29 PERCENT FEDERAL OWNERSHIP TO ABOUT 28 PERCENT.

IT IS TRUE THAT THERE WERE SOME INCREASES IN OTHER STATES, INCLUDING CALIFORNIA-BUT OBVIOUSLY THAT IS NOT THE CONCERN OF THE AUTHOR OF THE AMENDMENT, SINCE THE AMENDMENT WOULD NOT REQUIRE DISPOSALS OF LANDS IN CALIFORNIA OR ANY OTHER PARTICULAR STATE. OBVIOUSLY, THE GENTLEMAN'S CONCERN IS A NATIONAL CONCERN-AND, NATIONALLY, THERE HAS BEEN NO NET INCREASE IN FEDERAL LAND HOLDINGS.

SO, MR. CHAIRMAN, THIS AMENDMENT IS UNWORKABLE, UNWISE, AND UNNECESSARY. IT SHOULD BE REJECTED.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming (Mr. Thomas).

The amendment was rejected.

The CHAIRMAN. Are there other amendments to title VII?

AMENDMENT OFFERED BY MR. LEHMAN

Mr. LEHMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lehman:

Page 69, after line 23, add the following: TITLE VIII-PROTECTION OF BODIE BOWL

SEC. 801. SHORT TITLE.

This title may be cited as the "Bodie Protection Act of 1994".

SEC. 802. FINDINGS.

The Congress finds that-

(1) the historic Bodie gold mining district in the State of California is the site of the largest and best preserved authentic ghost town in the Western United States.

(2) the Bodie Bowl area contains important natural, historical, and aesthetic resources;

(3) Bodie was designated a National Historical Landmark in 1961 and a California State Historic Park in 1962, is listed on the National Register of Historic Places, and is included in the Federal Historic American Buildings Survey;

(4) nearly 200,000 persons visit Bodie each year, providing the local economy with important annual tourism revenues;

(5) the town of Bodie is threatened by proposals to explore and extract minerals: mining in the Bodie Bowl area may have adverse physical and aesthetic impacts on Bodie's historical integrity, cultural values, and ghosttown character as well as on its recreational values and the area's flora and fauna;

(6) the California State Legislature, on September 4, 1990, requested the President and the Congress to direct the Secretary of the Interior to protect the ghosttown character, ambience,

historic building, and scenic attributes of the town of Bodie and nearby areas;

(7) the California State Legislature also requested the Secretary, if necessary to protect the Bodie Bowl area, to withdraw the Federal lands within the area from all forms of mineral entry and patent;

(8) the National Park Service listed Bodie as priority one endangered National Historic Landmark in its fiscal year 1990 and 1991 report to Congress entitled "Threatened and Damaged National Historic Landmarks" and recommended protection of the Bodie area; and

(9) it is necessary and appropriate to provide that all Federal lands within the Bodie Bowl area are not subject to location, entry, and patent under the mining laws of the United States, subject to valid existing rights, and to direct the Secretary to consult with the Governor of the State of California before approving any mining activity plan within the Bodie Bowl.

SEC. 803. DEFINITIONS.

For purposes of this title:

(1) The term "Bodie Bowl" means the Federal lands and interests in lands within the area generally depicted on the map referred to in section 804(a).

(2) The term "mineral activities" means any activity involving mineral prospecting, exploration, extraction, wiling, beneficiation, processing, and reclamation.

(3) The term "Secretary" means the Secretary of the Interior.

SEC. 804. APPLICABILITY OF MINERAL MINING, LEASING AND DISPOSAL LAWS.

(a) Restriction.- Subject to valid existing rights, after the date of enactment of this title Federal lands and interests in lands within the area generally depicted on the map entitled "Bodie Bowl" and dated June 12, 1992, shall not be-

(1) open to the entry or location of mining and mill site claims under the general mining laws of the United States;

(2) subject to any lease under the Mineral Leasing Act (30 U.S.C. 181 and following) or the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following), for lands within the Bodie Bowl; and

(3) available for disposal of mineral materials under the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).

Such map shall be on file and available for public inspection in the Office of the Secretary, and appropriate offices of the Bureau of Land Management and the National Park Service. As soon as practicable after the date of enactment of this title the Secretary shall publish a legal description of the Bodie Bowl area in the Federal Register.

(b) Valid Existing Rights.- As used in this subsection, the term "valid existing rights" in reference to the general mining laws means that a mining claim located on lands within the Bodie Bowl was properly located and maintained under the general mining laws prior to the date of enactment of this title, was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this title, and that such claim continues to be valid.

(c) Validity Review.- The Secretary shall undertake an expedited program to determine the

validity of all unpatented mining claims located within the Bodie Bowl. The expedited program shall include an examination of all unpatented mining claims, including those for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void, except that the Secretary shall not challenge the validity of any claim located within the Bodie Bowl for the failure to do assessment work for any period after the date of enactment of this title. The Secretary shall make a determination within respect to the validity of each claim referred to under this subsection within 2 years after the date of enactment of this title.

(d) Limitation on Patent Issuance.-

(1) Mining claims.- (A) After January 11, 1993, no patent shall be issued by the United States for any mining claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned-

(i) a patent application was filed with the Secretary on or before such date; and

(ii) all requirements established under section 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, 37) for placer claims were fully complied with by that date. [*H5672]

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this title, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(2) Mill site claims. -(A) After January 11, 1993, no patent shall be issued by the United States for any mill site claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned-

(i) a patent application was filed with the Secretary on or before January 11, 1993; and

(ii) all requirements applicable to such patent application were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mill site claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this title, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

SEC. 805. MINERAL ACTIVITIES.

(a) In General. -Notwithstanding the last sentence of section 302(b) of the Federal Land Policy and Management Act of 1976, and in accordance with this title and other applicable law, the Secretary shall require that mineral activities be conducted in the Bodie Bowl so as to-

(1) avoid adverse effects on the historic, cultural, recreational and natural resource values of the Bodie Bowl; and

(2) minimize other adverse impacts to the environment.

(b) Restoration of Effects of Mining Exploration. -As soon as possible after the date of enactment of this title, visible evidence or other effects of mining exploration activity within the Bodie Bowl conducted on or after September 1, 1988, shall be reclaimed by the operator in accordance with

regulations prescribed pursuant to subsection (d).

(c) Annual Expenditures; Filing. -The requirements for annual expenditures on unpatented mining claims imposed by Revised Statute 2324 (30 U.S.C. 28) shall not apply to any such claim located within the Bodie Bowl. In lieu of filing the affidavit of assessment work referred to under section 314(a)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a)(1)), the holder of any unpatented mining or mill site claim located within the Bodie Bowl shall only be required to file the notice of intention to hold the mining claim referred to in such section 314(a)(1).

(d) Regulations. -The Secretary shall promulgate rules to implement this section, in consultation with the Governor of the State of California, within 180 days after the date of enactment of this title. Such rules shall be no less stringent than the rules promulgated pursuant to the Act of September 28, 1976 entitled "An Act to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes" (Public Law 94-429; 16 U.S.C. 1901-1912).

SEC. 806. STUDY.

Beginning as soon as possible after the date of enactment of this title, the Secretary of the Interior shall review possible actions to preserve the scenic character, historical integrity, cultural and recreational values, flora and fauna, and ghost town characteristics of lands and structures within the Bodie Bowl. No later than 3 years after the date of such enactment, the Secretary shall submit to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report that discusses the results of such review and makes recommendations as to which steps (including but not limited to acquisition of lands or valid mining claims) should be undertaken in order to achieve these objectives.

Mr. LEHMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEHMAN. Mr. Chairman, I rise to offer an amendment to H.R. 518 that would protect the integrity of a very important landmark in the Bodie State Park and the surrounding Federal lands.

This amendment is identical to H.R. 240, the Bodie Protection Act, as the bill passed the House. This bill has passed the House BLM twice under suspension of the House rules and is supported by the State of California, and major environmental and historic preservation organizations, among others. Bodie, a former gold mine district and preserved authentic ghosttown was designated a national historic landmark in 1961 and a California State Historic Park in 1962. The National Park Service listed Bodie as a priority No. 1 endangered national historic landmark in its fiscal year 1990 report to Congress entitled "Threatened and Damaged National Historic Landmarks" and every year since then, and recommended protection of the Bodie area.

The 19th century Bodie mining district is located east of the Sierra Nevada Mountains in Yosemite National Park, CA. Today over 200,000 tourists visit Bodie every year to see the 100-plus buildings still standing in the West's oldest mining town. At Bodie, visitors can see firsthand how people lived in the mining camps that cropped up throughout California in the aftermath of the discovery of gold at Sutters Mill in 1848; a discovery that gave rise to the world famous California gold rush. While Bodie stands as testament to the mining days of old-and despite its status as a national landmark and State park-the area is in jeopardy from the threat of modern-

day mining activities. In order to extract and process the gold and silver believed to be in the area surrounding Bodie, large-scale mining techniques, such as strip mining, heap-leach piles, cyanide spraying and waste ponds, most likely would be required.

The 450-acre Bodie State Historic Park is closed to mining. However, the area adjacent to the State park and under BLM jurisdiction is open to mining and as such poses a threat to the historic district. In recognition of this danger, the BLM has recently designated the bowl Bodie as an area of critical environmental concern and-consistent with this legislation-is recommending that the area be closed to mining. H.R. 240 would provide some additional protections to Bodie in order to preserve its historic and visual integrity. The pending amendment would put the nearly 6,000 acres of public land within the Bodie bowl off-limits to mining under the general mining laws.

Mining on valid claims would be allowed to proceed under rules designed to protect the area's important historic and cultural resources. In addition, mining claims could not be patented in the Bodie bowl except where rights had vested by January 11, 1993.

Finally, the amendment would require the Secretary of the Interior to review possible actions to preserve the cultural and natural values of the Bodie Bowl and report back to Congress within 3 years.

Mr. Chairman, I urge immediate passage of this very valuable amendment.

The CHAIRMAN. Is there further debate on this amendment?

If not, the question is on the amendment offered by the gentleman from California (Mr. Lehman).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title VII?

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Tauzin: At the end of the bill, add the following new section:

"SECTION 703. LAND APPRAISAL.

Lands and interests in lands acquired pursuant to this act shall be appraised for their highest and best use without regard to the presence of a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)"

MODIFICATION OF AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I ask unanimous consent to make a technical correction to the amendment that was printed in the Record for section 703. The language of this modified amendment deletes the language "for their highest and best use," and it is designed to clear up confusion regarding the meaning of highest and best use versus their market value in determining the value of private property.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification of amendment offered by Mr. Tauzin: Strike out "for their highest and best use".

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

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

The text of the amendment, as modified, offered by Mr. Tauzin is as follows: [*H5673]

At the end of the bill, add the following new section:

"SECTION 703. LAND APPRAISAL.

Lands and interests in lands acquired pursuant to this act shall be appraised without regard to the presence of a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)"

Mr. TAUZIN. Mr. Chairman, the amendment we offer involves the question of the appraisal of property that is purchased pursuant to this act from private property owners to enlarge the land area protected under the act.

Under the law of this country, when the government acquires property from private landowners for a public purpose, be it a road, a bridge, a hospital, a **wilderness** preserve or a park, the landowner is entitled to compensation under the fifth amendment of the Constitution.

I want to quote the fifth amendment precisely for my colleagues. The fifth amendment, in its last concluding statement, says, "Nor shall private property be taken for public purposes without just compensation."

It does not say simply "without some form of compensation" or "a little compensation" or "somewhat compensation." It says, "just compensation."

The question that is before the House with this amendment is what is just or fair compensation when private property is taken for public purposes, in this case for **wilderness** protection.

The problem that this amendment addresses is a problem that many Americans face across this country when the government places a restriction on the use of property prior to acquiring it.

Here is the situation. In this case, the government comes along and says that "Your property is now subject to a critical habitat restriction."

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"We have decided that in order to protect some plant, bug, bird, or mammal that may be threatened or endangered, that you can no longer use your property the way you used to use it or the way you might propose to use it. We are going to restrict the use of your property. In some cases you may not be able to use it at all, because it is now an important critical habitat of some threatened or endangered species of plant or animal."

Here is the problem. The government says a week later, "I will tell you what we are going to do. We are going to buy your property now, but we are not going to pay you the value of your property before we restricted your use. We want to pay you the value of your property after we have destroyed your ability to use the property."

Let me give some real number kinds of examples. You might have bought property at $ 20,000 an acre, intending to build a home on it, intending to use it as farm land, intending to sell the timber on it as forest, only to find out the next week that the government has declared your property a critical habitat. In Texas this week, for example, the Fish ;and Wildlife Service announced a 20.5-million-acre critical habitat proposal for something called the golden throated warbler. Twenty-three counties of Texas would be affected by this immense declaration of critical habitat.

When that habitat declaration is made, if it goes through, as many such habitat declarations have already gone through in areas with the spotted owl, for example, the value of your land tumbles. Who wants to buy a piece of property you cannot see? Who will take the property from you and pay you that $ 20,000 you spent for your property? Obviously, no one in the marketplace would do that, so the government has literally taken away the value of your property when it declared it a critical habitat.

Two weeks later then the government comes along and says, "No problem, we are going to pay you just compensation under the Constitution." You say, "What am I going to get?" They say, "We are not going to pay you $ 20,000, we are going to pay you $ 500 instead, because that is all it is worth now."

The government will have taken your property from you and then refused to pay you the fair market value of the property before the government use restriction hits your property. Is that a real case scenario, Mr. Speaker? I promise that it is.

In my home State of Louisiana, on the West Bank of New Orleans in the parish known as Jefferson Parish, we are trying to build a hurricane protection levee to protect that enormous population from the storms and ravages of hurricanes when they hit the Gulf Coast. To build the hurricane protection levee, we had to get a Corps of Engineers permit.

The Corps said, "You cannot build it out on the wetlands, you have to build it on the high ground in Jefferson Parish." That high ground had been valued at $ 20,000 an acre.

When the levee board went to acquire it from the landowners, they said. "We do not have to pay you $ 20,000 an acre. All we have to pay you is $ 500 an acre."

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. Tauzin) has expired.

(By unanimous consent, Mr. Tauzin was allowed to proceed for 5 additional minutes.)

Mr. TAUZIN. They said, "All we have to pay you is what it is worth now, because the government has condemned it as wetland property. All we have to pay you is $ 500 an acre."

The landowners are in court today. The original court decision, and it is on appeal, said, "No, you cannot do that, government. The Constitution says you cannot take property from people without paying them just, fair compensation, and fair compensation is what the land was worth before you devalued it, before you came along with your new regulations, your new restrictions on use."

Mr. Chairman, that is all this amendment does. This amendment guarantees that for property owners who will lose their property to the government by virtue of an eminent domain taking, that they will get their fair, just compensation. They will not get paid what the property is now worth because the government has devalued it with a critical habitat declaration. They are going to get a fair appraisal of the property based on market value without regard to that designation.

Mr. Chairman, if we do not do that, we will literally be allowing the government to take people's

property from them without fair or just compensation as required in the fifth amendment. The courts of our land have been looking at this question. They have been looking hard at it.

In the Florida Rock decision issued in March of this year, the Court of Appeals here in Washington, DC, the court looked squarely at that issue. It said very succinctly, very clearly, that the landowner who is affected by a regulatory decision like a wetland or endangered species declaration must be paid the difference in value from the market value prior to that decision to what it is worth today, after that decision.

Mr. Speaker, in effect, when the government devalued the property in a wetlands declaration, in that case it owed the landowner the difference in value before and after that declaration. That is what the courts are saying.

In addition to that, the Supreme Court looked at the case of private property rights in a decision rendered just a couple weeks ago entitled "Dolan versus City of Tigert," a case arising out of the Northwest. In that case a city government tried to force a landowner to give up part of that property, in that case ;for a bike path and a green area, in return for the right to get a building permit.

The court in that case said something very profound. It said that the fifth amendment protection of private property and the requirement to pay just or fair compensation for it when the government takes it is as sacred in this country as are the protections of free speech, the free practice of religion, freedoms of the press, freedoms to assemble in this country, the freedom to be protected in due process from unlawful search and seizures.

In fact, Mr. Chairman, it said it is as sacred as any provision in the Bill of Rights, and that the government in the city of Tigert could not compel that land owner to give up its property just to get a building permit.

In effect, our Supreme Court is increasingly recognizing what all of us believe to be the law in this land, which is that private property is pretty sacred to our economic institution, to the institution of our government and our society in America. It is what separates us from the systems that have [*H5674] fallen apart in Eastern Europe, the communist systems of communal ownership.

If we are to protect the rights of citizens under the fifth amendment to fair and just compensation, this amendment is necessary. It is critical. If people's property will not be appraised fairly and justly before the government devalues it with its regulation, we will be allowing the government to take private property without fair or just compensation. That is what this is all about.

If Members believe, as I do, and as the courts are increasingly saying, that the right to own private property is pretty doggone sacred in America, and that the government cannot take it from you without paying for it one way or the other, then you must support this amendment. It simply says that in the appraisal of private property, when it is taken by the government, the government must pay the fair compensation, the market value before the government devalued your property with a regulatory process called critical habitat or wetlands designation.

If Members believe in that, as I do, then I urge them to support this amendment.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. Tauzin) has again expired.

(By unanimous consent, Mr. Tauzin was allowed to proceed for 1 additional minute.)

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

Mr. TAUZIN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the gentleman's amendment, as I understand, though, upsets the Park Service and other land management agencies. He is obviously addressing this only to the Government in an instance where we may have occasion to purchase land, is that correct, in those terms, or to sell it?

Mr. TAUZIN. Mr. Speaker, I am sorry, I do not understand the gentleman's question.

Mr. VENTO. If the gentleman will continue to yield, Mr. Chairman, this amendment is directed to and of course affects, it is directed only to the Government agencies or entities that would be purchasing or selling land, is that correct?

Mr. TAUZIN. That is correct.

Mr. VENTO. That is all this is directed to. If the gentleman will yield further, the point is that the gentleman says the Park Service and others are directed to pay fair market value, and what the gentleman's amendment does is to define what constitutes fair market value.

In other words, normally this is not something that is written in statute. There are many facets to fair market value. This is, of course, contained in an interpretation of the law with regard to the fifth amendment of the Constitution.

Mr. TAUZIN. The gentleman is not defining fair market value. In fact, by unanimous consent I have amended the amendment so it did not refer to highest and best use or any characterizations of market value.

Reclaiming my time, the gentleman's amendment merely says that in the appraisal of property, you cannot deduct it, you cannot lower the value, because of the critical habitat designation under the Endangered Species Act.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. Tauzin) has expired.

(At the request of Mr. Vento and by unanimous consent, Mr. Tauzin was allowed to proceed for 1 additional minute.)

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

Mr. TAUZIN. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, what the gentleman merely does is to begin to interject actions on the floor here in the legislative body in the law as to what constitutes fair market value. While he says he is not doing that, he is qualifying it and saying you cannot consider this fact and you can consider another.

Would it not also be true and possible under this particular procedure, then, to begin to put things into the law that would devalue the land? In a sense, just as the gentleman says you cannot consider this factor, but you can consider this factor, you are down a slippery slope here with the gentleman's proposed policy.

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Mr. TAUZIN. Reclaiming my time, I am on no slippery slope. If there is a slippery slope in America, it is the slippery slope on which the Government comes along, devalues your property, then tries to acquire it at the lower value. The bottom line is that Government ought not to be doing that to private citizens. If the Government is going to devalue property before we purchase

it, we are not being paid fair compensation.

Mr. Chairman, all we are doing in this amendment is saying that when the Government buys property, it ought to pay the fair market value before the Government devalues it for regulatory taking.

Mr. HANSEN. Mr. Chairman, I rise in support of the amendment.

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

Mr. HANSEN. Mr. Chairman, I think the gentleman from Louisiana did a super job in explaining this extremely important amendment. He talked about the fifth amendment which talks about the right that people will be justly compensated if their ground is taken.

Many of us in this body have come out of the State legislature and many of us have served in city councils. Having spent 12 years on the city council of my little hometown of Farmington, UT, from time to time as we expanded our water system, roads, or whatever it may be, we had to practice eminent domain.

What is eminent domain? When we have to take over some property, we had to establish the value of that private property, and then we would go about a legal procedure. Out of that, the city ended up paying for that ground. We paid what was the fair market value of that property.

In the State legislature, as Speaker of the House, I saw where our department of transportation had to do it, where the natural resources had to do it, and that is sacrosanct in America and has been around since the Constitution was written. Then in 1973 came along the Endangered Species Act, and we may talk about the Wetlands Act. I do not know if we will have time to do that.

Mr. Chairman, we find people all over America that somebody says, "This particular species is endangered." Did they then go to the person who may have owned the ground since the 1800's? No, they did not go to him and say, "We're going to pay you for this." They said, "If you move this animal, if you hurt this animal, you are going to find yourself in jail, you're going to find yourself with a big penalty."

Is this fair? We have seen houses burned down because of a rat. We have seen problems come about because of a fly. We may ruin the whole Colorado River drainage because of four fish that 30 years ago we called trash fish, and we tried to kill those trash fish and we tried to kill them with rotenone, and now we are going to maybe ruin the whole Colorado River compact because of this Endangered Species Act.

We look through this and we say, "Is this fair and equitable to individuals in America?" The resounding answer is "no."

Mr. Chairman, I could stand up here for 2 hours and give names to Members of citizens of the United States of America who have lost their land and had it devalued, people who have been there, fourth and fifth generation ranchers and owners and developers who wanted to do something with their ground.

Down in Cedar City, UT, the Secretary of Interior, Mr. Babbitt, came in and made this statement. He said: "We are going to value the property with the species on it." These people owned that property long before the 1973 Endangered Species Act. It is totally unfair to these folks to say, "Great, now, you're not going to get the value of your ground." This may be the inheritance for your entire family, but instead of being worth $ 20,000 an acre in that growing area of Washington County, St. George, which has more retirees go to it than anyplace in the West, they are now going to get $ 200, $ 300 an acre for it. It is totally unfair to those people. [*H5675]

In Washington County, we have a group of people who have tried their best to come up with a habitat conservation plan to protect the desert tortoise. We have had all sides together on the thing. After 4 years of working on this, after millions of dollars and thousands of man-hours, the Department of Interior wants to give them 25 percent of the value of their land.

Why should people have to put up with this? I think if I have ever seen an amendment in the last little while on this floor that makes eminent good sense, it is the amendment of the gentleman from Louisiana. I am happy to join with him on that particular amendment and would urge that Members of the body vote in support of this amendment.

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that all debate on this amendment and any amendments thereto end in 40 minutes, with the time to be divided equally.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. HANSEN. Mr. Chairman, reserving the right to object, I would object to that request. We have a number of Members who want to speak on this particular amendment and who feel very strongly about it.

Would the gentleman agree to a request for an hour on each side? Is that too much for him?

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield, I would not agree to an hour on each side, no. I thank the gentleman, and I withdraw my request.

Mr. FARR of California. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, the desert bill is symbolic of problems we are having in California. This magnificent State which at one time had a great deal of Federal ownership because it was a U.S. territory before it became a State is now occupied by 32 million people. The issues that are driving California are essentially the management of that population, where it is growing, and how it is going to utilize the resources upon which it lives.

Mr. Chairman, California has got a definite supply of water, a definite supply of air, and as we impact on those, we begin thinking about how we are going to manage the open spaces. That is what this desert act is all about.

What we are flirting with in this amendment is government manipulation of property values. It is a very, very dangerous precedent. Property values are not an exact science. In fact, if we see what really drives up property, it is property that is near open space, it is property that has views, it is property where there is clear air and clean water. In fact, it may be driven up because we have declared the habitat surrounding it as habitat for endangered species. If we begin manipulating these prices, we are going to put serious detriment into land use values, not only in California but in the entire United States.

Mr. Chairman, I served in local government as well as the distinguished gentleman who spoke before me. I served in the State government, have been involved in coastal zone management planning in California, a very regulated process, probably more regulated than any area in the United States. What has come out of that is higher property values. Why? Because the resources are being managed very meticulously and it increases property values.

Mr. Chairman, this amendment, I think, slaps a big burden on trying to determine what indeed those values are and in many cases may drive down from the willing seller the value.

There is a question raised about eminent domain. I do not know of any property that has ever

been taken in the United States for habitat protection by eminent domain. Those who have familiarity with it know that eminent domain is usually used in highway procedures where they are trying to drive a road through some property. There is also a liability in using eminent domain because if the government backs out of the agreed upon price, there are treble damages and government oftentimes has to pay more than anyone ever expected for land if they do enter eminent domain.

I would like to point out that a lot of the land in California, people are talking about Federal ownership. Seventeen percent of the State is owned by the Bureau of Land Management. The BLM land is land that nobody wanted in California, and today many people, it cannot be given to them. There is no water, no roads, no access, no good soil. It cannot be mined, it cannot be grazed, it cannot be farmed, it cannot be used. Yet we say, "OK, the Federal Government owns too much land." In fact, they ought to look at what we own.

Lastly, I would like to say that this amendment, I think, is probably well intentioned by those who think we are going to protect property values, but indeed I think we are going to destroy the ability to determine what is real fair market value in California and in other States by adopting this amendment. It is a dangerous precedent. I urge a no vote on the amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield on that point?

Mr. FARR of California. I yield to the gentleman form Minnesota.

Mr. VENTO. Mr. Chairman, as I perceive the correspondence dealing with the process of land appraisal, the point is made from the code of professional ethics adopted by the Appraisal Institute, one of the leaders is the appraisal industry, prohibits accepting an assignment based on ignoring things like endangered species. Ethical rule 3-3 states, "It is unethical to accept or perform an appraisal assignment if the assignment is contingent upon reporting a predetermined analysis or opinion."

The fact is that the OMB and the various agencies involved have the uniform rules with regard to 18 Federal land management agencies that function. They have adopted these guidelines. They are forced to pay a fair market value for whatever they purchase. This issue that there is some conspiracy theory, that somehow the Federal Government specifically is the root of all evil and that they somehow are designing in passing these laws and this legislation, whether it be clean air, the Endangered Species Act or wetlands delineation with the idea of somehow taking away from the citizens of this Nation something for less than fair value I think is frankly a very flawed logic.

I can understand that people may be very suspicious, but this gets beyond suspicion and into a conspiracy theory, as I said and should not be the basis for our vote or policy decision today.

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I think such conjecture and allegations are not helpful to the debate. The law and the Federal policy is required payment of fair market value. If this Congress can in some way qualify or limit what the Government can look at or consider, they can also exclude other factors that would result in less than fair market value going to people for their property.

So I would just suggest we avoid this pitfall-this slippery slope-and oppose this amendment.

Mr. LEWIS of California. Mr. Chairman, I more to strike the requisite number of words, and I rise to support the gentleman's amendment.

Mr. Chairman and Members, I am just fascinated by this debate and the discussion by my colleagues who come largely from the urban center about what they think about our desert

territory. My colleague, the gentleman from California (Mr. Farr), who is a dear friend from the urban center of northern California, says there are no roads, no water, powerlines and aqueducts; nobody would buy this stuff in the first place.

To suggest that is to say he has never really visited my desert. You know, Palm Springs is not the only part of the desert, I say to the gentleman from California (Mr. Farr). The lack of understanding about this issue is really unbelievable.

The east Mojave is filled with fantastic values. There are thousands of miles of roadway. There are endless channels of aqueducts and utility corridors. Those elements are factors that would never be considered to be part of a park, yet, they want to take millions of acres, and say every one justifies park consideration.

In the east Mojave there is a fantastic mix of potential value that would be limited by this committee and, indeed, by this debate. It is incredible that people do not understand the values [*H5676] that exist there today and are to be found there tomorrow.

Just in the last couple of years a spot in the eastern Mojave Desert would be just inside this proposed park by less than 8 miles, one of our prospectors discovered a new mine. It just happened to be a minor item. Who worries about marble in the United States? It is a major deposit of marble that is of quality higher than the best marble to come out of Italy. I have no idea what its future value is. But it is tremendous.

It would not have been available for even access if this bill had passed 8 years ago when the gentleman from Minnesota (Mr. Vento) and the gentleman from California (Mr. Miller) would have had it.

It is very important to know the thrust of the gentleman's amendment specifically. To put values on land that involve an endangered species, designated or to be designated, could have a tremendous negative effective upon landowners, property owners in this country.

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

Mr. LEWIS of California. I am happy to yield to the gentleman from Louisiana.

Mr. TAUZIN, Mr. Chairman, I thank the gentleman for yielding.

I think we need to really focus on exactly what this amendment and this debate is really all about.

The gentleman came up previously, the gentleman from California (Mr. Farr), and talked about manipulating value. It is the Government in this case that manipulates value against the landowner.

When the Government comes in and says, "You cannot use your property anymore because we decided it is critical habitat, and then tomorrow we are going to buy it from you but only at the lower value," who is manipulating value? The Government has. The Government has literally taken your private property without paying you for it.

That is forbidden in the Constitution. We ought to forbid it in this act. That is what the amendment is all about.

Mr. LEWIS of California. Mr. Chairman, I appreciate my colleague's contribution as well as his amendment.

The point he makes is emphasized by the following point: It was not very long ago that the

gentleman from California (Mr. McCandless) and I shared territory in Riverside County. I will never forget the issue of the fringe-toed lizard coming to my attention.

Suddenly a newly designated endangered species was impacting territory in and around that area that is Palm Springs, CA. Over time it became very apparent if the Department had its way they would take most of the open land left north of Palm Springs and put it in some kind of preserve.

What eventually had to be done, because there was a designation of the fringe-toed lizard as an endangered species, we actually had to create a preserve; several hundred acres of otherwise extremely valuable property owned by private citizens would have been somehow essentially taken over in terms of its relative value by this Department. That is precisely what the gentleman is trying to get to, that the Government should not be able to manipulate the value of people's property long held or otherwise because they decide to designate "X" endangered.

In my territory, another minor extension, I think expansion, of the original intention of Congress is as it relates to endangered species, the wooly star. I am sure that maybe even the gentleman from Minnesota (Mr. Vento) has not heard of the wooly star. But it is a cactus-like plant, an ugly little devil, I must say, but for about 3 weekends a year it develops a very small little purple flower, and it grows in watersheds, sandy territory.

Now, frankly, that partially describes much of my desert. Right now it is located in the watershed near the Santa Ana that is very, very valuable property. It is the production point of sand and gravel that leads to building houses and roads, less expensively.

The CHAIRMAN. The time of the gentleman from California (Mr. Lewis) has expired.

(By unanimous consent, Mr. Lewis of California was allowed to proceed for 3 additional minutes.)

Mr. LEWIS of California. Mr. Chairman, if one were to broaden that definition, pretty soon there would be no sand and gravel for building houses and roads for southern Californians.

The kangaroo rat: Now, I do have a lot of empathy for endangered species, but the kangaroo rat is not on my list, and it is about to drive low-cost housing opportunities out of the Inland Empire in southern California. Young people already, including my kids, are having difficulty buying homes because of what Government is doing.

My colleague from Louisiana is essentially saying we should not have the Government, by these mechanisms, manipulating the value of property.

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

Mr. LEWIS of California. I am happy to yield to the gentleman from California.

Mr. McCANDLESS. Mr. Chairman, I must express some concern about the logic I heard from the other side of the aisle relative to the appraisal process.

Having spent some time on the Committee on Banking, Finance and Urban Affairs, and going through the savings and loan debacle, assessments and how appraisals and everything are arrived at became a very important part of the legislation coming out of the dark ages there and bringing these things to light.

One of the things that we must understand is that the value of that land is based upon what that land has to offer in the way of development or esthetic value, or whatever else may be involved that the owner and the buyer wish to trade. If there is a "slippery slope" or however else you may wish to define it, that is a part of the actual land in question. The designation of this land for

purposes of the Endangered Species Act totally ignores, totally ignores what is the value of the land, and places a cloud over that value that is not representative of what the land actually represents to its owner.

Now, my experience in this has been rather extensive.

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

Mr. LEWIS of California. I am happy to yield to the gentleman from Louisiana.

Mr. HAYES. Mr. Chairman, I was formerly commissioner of financial institutions for the State of Louisiana, although I do not serve on the Committee on Banking, Finance and Urban Affairs.

My question to you is: If there is a $ 200,000 mortgage on a piece of property, and it is subsequent to that determination by a financial institution that it was a fair property value to use for that mortgage, and subsequently there occurs a listing under the Endangered Species Act; subsequently to that there is a purchase offered by the United States for $ 20,000. Is the gentleman simply saying that both the individual who will lose 180 and possibly the board of directors of the financial institution have liability to revalue all of their collateral assets in that institution which were given under one criterion and devalued under another?

The CHAIRMAN. The time of the gentleman from California (Mr. Lewis) has again expired.

(By unanimous consent, Mr. Lewis of California was allowed to proceed for 2 additional minutes.)

Mr. HAYES. To make it a simple question: What happens to prior mortgaged land?

Mr. McCANDLESS. If the gentleman will yield further, I believe the statement the gentleman made eloquently outlines a framework of the real problem here of a third party, an intangible aspect of the activities around this issue.

Mr. HAYES. If the gentleman will yield further, what is the legal responsibility of the members of a board of directors of a financial institution under title IV of the United States Code if they know for a fact land is worth less than they are holding it on their books even though the devaluation would bust the bank? What is their legal obligation with criminal penalties if they do not act?

Mr. McCANDLESS. We are kind of involved here in the desert. If I may, I believe the obvious response is that many of the criminal actions addressed through the Resolution Trust Corporation and other Federal agencies involved in the savings and loan debacle have reflected the very things that you are talking about here, improper evaluation of [*H5677] property and what goes on as a result of that.

Mr. HAYES. I thank the gentleman.

Mr. LEWIS of California. Mr. Chairman, with the balance of my time, if I might, I mentioned earlier a gentleman who had found a deposit of marble in my district.

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Mr. Chairman, my staff has brought to my attention something I did not realize. The Government has already driven Rick Domingo, a native American, out of business. He went to the Bureau of Land Management to attempt to lay the foundation for the creation of this mine, putting in the investment and the like, and because BLM was unsure of the future, they said, "Hey, you had better go talk to your congressman." Well, then they could not get any security as to the future potential use of this property because of the debate in the House. His investors got shaky and Rick Domingo has gone belly up as a result of it. This is an illustration of the problem of

excessive Government, wanting too much of our lives. Indeed, in this case even wanting to place a value on our property by their own arbitrary formula.

The CHAIRMAN. The time of the gentleman from California (Mr. Lewis) has expired.

(By unanimous consent, Mr. Lewis of California was allowed to proceed for 2 additional minutes.)

Mr. LEWIS of California. Mr. Chairman, I yield to the gentleman from California (Mr. McCandless).

Mr. M c CANDLESS. I thank the gentleman for yielding.

Mr. Chairman, my reason for getting up was to talk a little bit about this fringe-toed lizard and what kind of impact that had on the community that I represent and actually live in.

It is a 14,000-acre preserve now I believe, paid for by the Federal Government, paid for by local government, paid for by county government, paid for by the building industry and those who represent it in a consortium of involvement and a payment over a period of time.

It is important to note that for a length of time, which we are still recovering from, that the adjacent properties and the assessments on those adjacent properties to pay for this have substantially reduced the value of that property, whether it be for farming, whether it be for development, or for whatever other purpose.

We briefly mentioned the kangeroo rat. The kangeroo rat has demoralized the county of Riverside, and has reduced values of property far less than what anybody would conceive of if a fire came through or a flood came through and reduced its overall worth or value to an assessment or an evaluation.

The Endangered Species Act has been the most dynamic force in reducing property value below whatever it should be, according to a fair market and other factors, because it is not developable. If the county of Riverside were to say you can put 1 house on every 10 acres and that is the zoning of the property, if the K-rat was eventually found on that property then you could not put the 1 house on that 10 acres, because the county of Riverside would not issue that permit because you would be in violation of the Endangered Species Act.

I had a constituent who wanted to add one bedroom to his house because he had another child. He could not add that one bedroom to the house on the 5 acres that he owns because of the Endangered Species Act.

This is the problem that we are talking about. My colleague, Mr. Tauzin, his amendment addresses that.

The CHAIRMAN. The time of the gentleman from California (Mr. Lewis) has again expired.

Mr. LEWIS of California. Mr. Chairman, I ask unanimous consent to proceed for an additional 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. VENTO. Mr. Chairman, reserving the right to object, is there some agreement that we could gain on time in terms of the extension that are going on? I would suggest that there has been some over 25 minutes of debate on one side by the proponents of the amendment and 5 minutes by the opponents of the amendment. Is there some agreement we could get, even on an unequal basis, so that we could conclude this is a timely manner, say 35 minutes, for instance for Mr. Hansen and 25 minutes by Mr. Miller.

Mr. VENTO. I reserved the right to object, and I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I would suggest that this is by far the most significant amendment remaining on the bill before us today. It involves people's property. I am very hesitant to lightly restrain the time. But I would certainly yield to the gentleman who is the author of the amendment.

Mr. VENTO. Renewing my reservation, under my reservation: The issue is that I am suggesting an additional hour on top of the half-hour, spending an hour and half on this; is there any suggestion on the part of the gentleman?

Mr. LEWIS of California. I do have a suggestion. I suggest to the chairman that there are other amendments that I may very well choose not to take up today. It is very conceivable.

Mr. VENTO. Mr. Chairman, under my reservation, I yield to the gentleman from California (Mr. Miller).

Mr. MILLER of California. I thank the gentleman for yielding.

Mr. Chairman, we understand the gentleman has a whole series of amendments and that he can continue to drag out this bill. That is certainly his right under the rule that I sought that allows him to do that. The question is whether or not we can have a reasonable time limit on debate here so that we can move on either to the consideration-the gentleman's rights continue no matter what we do here-protecting the rights of all Members who are here on the floor, if we had 40 minutes, Members would have 5 minutes to spend on the amendment.

Mr. VENTO. I yield to the gentleman from California (Mr. Lewis).

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Chairman, I must say that I would take the leave of the author of this amendment in connection with a specific amendment. But indeed we would not have the number of amendments on the floor that we have today if the committee had originally been halfway responsive or even consulted with Members who are elected to represent the desert.

Mr. VENTO. Reclaiming my time, Mr. Chairman, the issue is here. I seek a reasonable time to consider the amendment before us in terms of this issue, which has been debated repeatedly here on the floor. The issue here is tangential, at best.

Under my reservation--

Mr. LEWIS of California. Mr. Chairman,--

Mr. VENTO. Mr. Chairman, I continue my reservation of objections.

The CHAIRMAN. There is one unanimous consent request on the floor.

Mr. VENTO. And I reserved my right to object under it. I am yielding to the gentleman from Louisiana.

Mr. M c CANDLESS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. M c CANDLESS. Mr. Chairman, my colleague asked for an additional 2 minutes, which the

gentleman in question took exception to under the unanimous-consent request.

Mr. VENTO. I reserved my right to object. Under my reservation, I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding.

Mr. Chairman, let me point out that we have not had long debates on this issue. This is the first time we have ever had a chance to bring this issue of property rights and compensation before this body. And to suggest that we have had a lot of time to debate it is wrong. Many Members are just now getting the messages in their offices right now who will want to come to the floor and debate it. I would be very, very careful about limiting time on this debate with Members just now being alerted to this very serious question.

I think we ought to see who is coming to debate it first, and let us have a good debate.

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

Mr. VENTO. Under my reservation, I yield to the gentleman from Louisiana.

Mr. HAYES. I thank the gentleman for yielding. [*H5678]

Mr. Tauzin sponsored the amendment. The gentleman mentioned two lawsuits earlier today. One was Florida Rock, and the other was Dolan. Have not both of those been going on for over 20 years and are not, in fact, one of the original plaintiffs now deceased?

Mr. VENTO. I cannot give the answer.

Mr. Chairman, I yield to the gentleman from Louisiana to respond to the gentleman from Louisiana.

Mr. HAYES. We are speaking of time here. We will have nothing but dead plaintiffs left while we have wasted time in not enacting legislation to give people their rights.

Mr. VENTO. Mr. Chairman, reclaiming my time, I yield to the gentleman from California (Mr. Miller).

Mr. MILLER of California. I thank the gentleman for yielding.

I just want to correct the record here.

The fact is that this amendment and all other amendments could have been offered in committee, and they were not offered in committee. So they have chosen to offer this amendment for the first time in this forum to continue the debate.

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

Mr. VENTO. I yield to the gentleman briefly.

Mr. TAUZIN. I point out that this Member does not serve on Mr. Miller 's committee. I would love to have served on this committee. I do not serve on this committee.

Mr. Chairman, this committee is the Committee of the Whole House. This is my chance to get this amendment to the floor and get it debated, and I would like to have a full debate on it.

Mr. MILLER of California. Mr. Chairman, the point is that the gentleman from California (Mr.

Lewis) suggested somehow this is the only place you could consider this amendment because in fact the committee did not allow that. The bill was considered, and any member of the committee could have offered any amendment. The members of the committee on the other side and on our side chose not to offer this amendment. The gentleman is perfectly right.

Mr. VENTO. Mr. Chairman, I withdraw my reservation of objection and let the gentleman (Mr. Lewis) have his 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. Lewis)?

There was no objection.

Mr. LEWIS of California. I thank the chairman for being so kind with his time. I must comment to the chairman's remarks: It happens to be unfortunate that not one Member who is elected to represent the desert, out of the five, serves on the committee. They were not consulted at all by the committee. And were dealt with in an arbitrary manner by the committee, in this Member's judgment.

Mr. Chairman, I yield to my colleague, the gentleman from California (Mr. McCandless), a Representative of the desert.

Mr. McCANDLESS . I thank the gentleman for yielding.

Mr. Chairman, I would like to make one other point regarding evaluation of property. In a recent wildfire in my district, 39 homes were burned down to the ground. Prior to that wildfire, one of the owners of one of these homes asked for a permit to build a tractor shed. That permit was requested and re-requested, but refused by the county because it said, "Your property is on the Endangered Species List." That house and 38 others burned down because the Endangered Species Act did not permit the disking of the property which they owned, around their dwellings and other structures. And as a result, the wildfire came directly through, burning the grass up to and including the house.

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My point here is that the Endangered Species Act, whether applied to improved or unimproved land, has been a substantial detriment to the value of the property in question, and so I take exception with those who say that the Endangered Species Act has no impact or should not have any impact upon the assessments of property as it relates to purchase by a Federal agency.

Mr. LEWIS of California. Reclaiming my time, Mr. Chairman, let me mention that I started these remarks by discussing the fact that one of my constituents, Rick Domingo, has essentially been put out of business by government. I know that not too many of my colleagues may care about that native American who now is essentially out of work and has lost the potential value of his claim. I had hoped that the House would at least care about the 70 employees he was planning to hire from Baker, CA.

Mr. VENTO. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Louisiana (Mr. Tauzin).

Mr. Chairman, there has been a lot of discussion already in terms of the Endangered Species Act. The truth of the matter is, and, of course, this amendment affects the fundamental process of arriving at a fair market value; but the issue here is of whether or not we are going to begin to legislate different qualifications in terms of what fair market value is for at least some of the land management agencies in the context of this bill.

We are talking about, in this case, the BLM management of land, and the Park Service

management of land principally. As I said, there are 18 different and acquiring agencies in the Federal Government which, under the uniform standards, would prohibit such practices as being inappropriate and would result in something less than what fair market value is, and proponents suggest that we are not affecting such standards. We, in a whole host of both national and State laws and zoning laws, have as impact on what the value of land is whether it is zoned for commercial development, residential development, other types of limitations and extensions that the State or national government may place on it, whether it has harmful deposits of toxic materials on it, whether it has other types of value associated with the land in terms of naturally occurring minerals, some obviously semiprecious or high value like gold. All of these factors enter into the fair market value.

Congress has, Mr. Chairman, when attempting to interfere with that, has been put down on the basis of what the constitution provides in the fifth amendment, which is a good protection, and most recently my colleagues quoted cases, the Rock case, the Dolan court case, in which local governments, national governments, the Federal Government, may have taken action or attempted to disallow certain factors or impose certain conditions which reduce the fair market value.

The proponents are intent upon legislating, in this instance and if the Congress can do so and passes laws that limit value and that say, "You can't look at a specific factor or factors; you have to be blind with regard to endangered species," I would suggest one could be blind with regard to certain mineral values on land. One has to disallow that particular value which would, indeed, bring us down a policy path where we would take away this particular function from the courts, form the professional appraisals, and take it upon ourselves to qualify property value judgments.

Now, Mr. Chairman, we pass a whole host of laws if we disagree with the Endangered Species Act, or for that matter, with the toxic waste deposits that are on land or other factors. We can change those laws with regard to that. I do not think in a sense that we should, but, Mr. Chairman, nevertheless we can, and there are some problems that would then be resolved.

One constituent explained that stated it well regulation, zoning land classification is really the hand of the State, local, and national government on the landscape of this Nation. That really is what the power and responsibility of government is, regards land use shaping such uses and limits some take about unfunded mandates. I say, "If you're going to begin to define the context of what is and isn't considered a reduction in property value, you're going to really paralyze both State/local governments, the national land management agencies, in their ability to do fulfill their role, and I mean that job runs the gamut of the 18 land management agencies we have at the Federal level and every State and local government in the country. This would be the granddaddy of all unfunded mandates that one could imagine. It's a way to paralyze the government." [*H5679]

I would say that it is, I think, out of sight to consider the fact that the government somehow has an intention to impose certain conditions on land and private property so that it could take away property from individuals in this instance without payment of a fair value. This amendment, while perhaps well intended in pointing out a problem, is really inappropriate for the National Government to, in fact, not pay fair market value for any land it purchases.

There are problems in these areas because, as we talked about, the fringe toed lizard, and the kangaroo rat, and the woolly cactus that occur in these lands, that simply shows that the likelihood of entire ecosystem in stress; that is, a serious problem, and we are losing those rare species, hopefully we would find solutions to get ahead of the curve, as Secretary Babbitt has articulated in directing the Department of the Interior with regard to the host of fauna and flora that are under stress in the desert and other critical habitats in this Nation, and that we would not take this particular one-sided approach to action or move in the direction we have before us today.

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

Mr. VENTO. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I think on the discussion when we are talking about the Federal Government, and then we are comparing it to the local governments, I think respectfully there is a difference. In local government we have a board of adjustment. In local government we have an appeal process. In this all we have is the courts, and we can go to the court, I am sure, but it would seem to me that it is not really the kind of comparison we would want to look at because in a local government and on the State basis we have boards of adjustment, people one can go to.

The gentleman talks about Secretary Babbitt. In my home State--

Mr. VENTO. Reclaiming my time, Mr. Chairman, I do not think it has to do with whether we have a court.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. Vento) has expired.

(By unanimous consent, Mr. Vento was allowed to proceed for 3 additional minutes.)

Mr. VENTO. Mr. Chairman, I am going to yield to the gentleman from California (Mr. Miller) in one moment, but my point would be that we are not talking about whether there is an appeal process, whether it is through a court or formal board. We are talking about what the rules are that govern or the values are that govern the value of the land; in essence, what is going to be paid or what is going to be compensated by adjusting that, and what is being suggested. Irregardless of whether there is an endangered species on the land that has an impact in how it can be used; that is the case when we talk about water rights on land. That is the case when we talk about whether there is an air pollution problem or whether there are certain types of mineral deposits on land. We are dealing with the fundamental value that is there, sometimes defined and regulated by reasonable law and Government actions.

There is no difference between two plots of land at a local level except that they zone one for commercial and one for residential, and that is what we are dealing with. We are dealing with changing or structuring in Congress, such value in this amendment not depending on the marketplace, but structuring those.

Now it is true that sometimes laws locally, nationally, federally, statewide, have an impact in terms of what the value of land is. I yield that particular point. But the fact is that you are proposing that Congress mix into such issue-we are not changing the fundamental law. We are saying, "Disregard what the value is and pay that notwithstanding the Endangered Species Act in this instance, and you can do that with any one of the rules or any one of the laws that I just spoke to in the same vein.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I just want to say, as my colleagues know, the strong suggestion is somehow this is going to relieve the endangered species problems on lands, and the fact is it is not. The fact is what the Government would do in this case, I guess if this was the land, the gentleman was going to force the Government to pay a higher price in spite of the reality on the land. The Government will come along, and they will make a determination, as they make today, about habitat, about land, that there is an endangered species problem. If, in fact, there is one, they will have to support that and go on about their business. And guess what? That landowner will have that land at that market rate, and they can then deal with

anybody in the private sector they want, and the Government can just stand back and watch that because the fact is there will then be 404 permits, there will be clean water requirements, there will be endangered species, and that is fine.

Now the question is whether or not we then want to, because basically what we are doing here is we are prohibiting the Government, we are prohibiting the Government from going in and acquiring that land if, in fact, they have made an endangered species determination because what we are saying to the Government is they must pay a higher value for that land than the land is really worth out in the market.

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So they can let that landowner sit out in the market and determine what it is worth with these requirements, because let me say that if you are a developer, if you are a homeowner, or you are a rancher, and you want to buy that land, you are going to ask, "Is there a species problem?"

They may say, "Yes, this an endangered species habitat, and there is a wetlands problem here." So you are going to say, "Well, I am going to have to pay you a little less because I would have to get a permit. I would have to go through these processes, and I have to wait to see if that gets cleared up."

But you do not want to reserve that right to the Government. So the fact is that what this amendment dictates is that the Government goes ahead and makes its finding and they know that that land is going to be treated in accordance with the Clean Water Act, and so forth.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. Vento) has expired.

(By unanimous consent, Mr. Vento was allowed to proceed for 3 additional minutes."

Mr. M c CANDLESS. Mr. Chairman, will the gentleman yield?

Mr. VENTO. Mr. Chairman, I continue to yield to the gentleman (Mr. Miller).

Mr. MILLER of California. Mr. Chairman, the point is that the Government really does not then have to deal with these lands because they will treat these lands as they can under the existing laws.

Mr. M c CANDLESS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. No; I cannot yield. The gentleman has the time, and I have asked him to yield to me. I have not completed my statement, and the gentleman has spoken several times on the amendment already.

Mr. Chairman, the point is this: that the Government does not have to assume the burden because it already has, under existing laws that are not subject to this legislation, the ability to go out and to define whether or not various lands have habitat and species problems and whether various lands have wetlands problems, if it already comes to that, and that will continue. The only thing we have done here is we have taken the Government out of the market as to whether or not they choose to acquire those lands, and in this case most of the lands are not going to be a threat to the Federal reservations. We would like to acquire them for management purposes. A number of people may be there who would like to leave these lands to the Government because they want the Government to acquire them. But what you are simply saying is that if you are going to force this on the Government, a land manager cannot say, "I am going to pay an artificially high price for these lands," because I think in fact we are working to an end which [*H5680] most of us would suggest we do not want. But that is fine because

that classification of endangered species problem will be out there and the free market can deal with it, and you will find in fact the free market would treat this as would the Government but for the amendment, because we would be considering whether or not this is in fact a fair market value.

Mr. M c CANDLESS. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. M c CANDLESS. Mr. Chairman, I appreciate the gentleman's yielding.

The issue here that started this spark was that the Endangered Species Act does not have an impact upon the appraisal of the property based upon the outline that the gentleman read with respect to professional assessments of property.

Mr. VENTO. Mr. Chairman, if the gentleman will let me reclaim my time, I would be happy to share the statement with the gentleman. I read a portion of it.

I did not imply nor did I mean to imply, nor does the statement, I believe, imply that the Endangered Species Act has no impact. I believe we all know that it does, just as other types of laws have an impact, whether they be toxic waste laws or other types of laws, have an impact.

Mr. M c CANDLESS. Mr. Chairman, will the gentleman yield further for just one more point?

Mr. VENTO. Yes; I yield to the gentleman from California.

Mr. McCANDLESS. Mr. Chairman, if an area is designated by the Fish and Wildlife Service as an endangered species study area or if it is determined that this area is in the Endangered Species Act requirement, no county in the State of California and, I would assume, other States can issue a building permit for any type of structure, be it commercial, residential, or the improvement of an existing structure, since that cloud has been emplaced upon the property. That is my point. That dramatically reduces the value of the property.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. Vento) has again expired.

Mr. VENTO. Mr. Chairman, I ask unanimous consent that I be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

Mr. TAYLOR of North Carolina. Mr. Chairman, reserving the right to object, this would be based upon the fact that my watch keeps up with everybody else's watch.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Chairman, let me inquire, has the gentleman from California concluded his statement?

Mr. McCANDLESS. Yes, I have, Mr. Chairman.

Mr. VENTO. Mr. Chairman, let me suggest that I yield to the gentleman from California (Mr. Miller).

Mr. MILLER of California. Mr. Chairman, let me just say that what we have heard on that point is just not so. The fact is that people have endangered species on tracts of land and they engage in mitigation plans with Fish and Wildlife or with the corps, or whatever the agency is. Because they are both involved in this. We have some of the most valuable golf courses in America that are built across endangered species habitats because mitigation plans were put forth and the species continued to strive and the value is there, and the people still built the course and they are commercially successful. Let us not pretend that that is the end-all. In fact, that has enhanced the value of lands around them.

So this amendment should really read either way. The point is that in fact the setting aside of habitat and the setting aside of wetlands also accrues to the value, and if we are honest about this amendment, we should also say that we should not be able to account any value that was added by governmental action, such as a county road down the front, a freeway down the front of it, a national park along the side of it, or a water project that brought water to the property.

Why is it that the Government always has to take the losers and they never let us share in the values that are increased because of governmental action?

Mr. Chairman, I thank the gentleman for yielding to me.

Mr. VENTO. Mr. Chairman, I think that points up one of the problems. I am almost out of time, and I do not want to continue to extend my time because other Members may want to speak.

But the point is, very simply, that if we are looking at something in a community or a city having some special species or plants, or other amenities on it, that can be a desirable feature. In fact, the park designations themselves have had the characteristics of increasing the value of lands around the parks. People want to live by national parks and by local and State parks.

The point is this, Mr. Chairman, I would conclude by saying that if there is a demonstration that there is collusion between the Government designation of an endangered species and then coming back and purchasing the land cheaply, I think obviously in any court they would take action to rectify that situation. That is the Doland case where the local government was determined to overstep its lawful authority.

Mr. LEHMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me say to my colleagues that what we have here is essentially an issue of the process around here. The gentleman from Louisiana (Mr. Tauzin) and others have tried for sometime to get Endangered Species Act questions on the floor of the House. He has a bill, and the chairman of the Committee on Merchant Marine and Fisheries, the gentleman from Massachusetts (Mr. Studds) has another bill. The issues are well understood by Members of the House, but we have had really no opportunity here on the floor to debate these issues or discuss the important parts of it, and I think what we are seeing here today is a real frustration over the ability to get the significant issues in full debate before the House and find out where the votes are as far as amending this act is concerned.

It would certainly be preferable at this point to debate an issue like this in the context of the entire Endangered Species Act, with those problems before us, so the House could act, but since we do not have that opportunity, I think the gentleman from Louisiana (Mr. Tauzin) is going the only thing he can do here, and ;that is to try to use this opportunity to bring at least one issue connected with this before the House. This is not a perfect proposal by any means that the gentleman from Louisiana (Mr. Tauzin) has, because it only affects the Federal acquisition of these lands, and certainly in the private sector between two parties the discount necessitated by the Endangered Species Act application would have to be factored in. But at least here he has made an attempt to deal with this issue.

I would point out that the real tragedy here is that the individual whose land is impacted by the decision, whether that decision is right or wrong, under the existing process has no opportunity for public input into that process that affects his or her land, has no guarantee and in fact has no right to bring the economic issues that are at the core here to the table under the existing act. As to the very issues we are talking about, that person who owns the property has absolutely no possibility to get to the table in the discussion either in the decision to list the species or in the subsequent discussion of the mitigation.

Finally and most egregious, if there is a decision to list, there is no right to go to court on the part of the property who opposes and challenges that decision. Only if there is a failure to list is there a right to go to court. The only instance here in which someone can exercise their right to go to court is under a takings process that could cost hundreds of thousands of dollars and a lot of time, and most people are not in a position to do that.

So my sympathies here lie with what the gentleman from Louisiana (Mr. Tauzin) is attempting to do. I would hope that a strong vote on this today would send a clear message that we [*H5681] ought to be dealing with this entire issue here on the floor of the House and find out where the votes are. Certainly there is a need for some change.

But in this instance I think there is real injury here to a party that has no opportunity to defend themselves unless they have enough money to go to court and take the appeals process up on a taking.

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

Mr. LEHMAN. I yield to my friend, the gentleman from Louisiana (Mr. Tauzin).

Mr. TAUZIN. Mr. Chairman, I want to thank my friend for his excellent statement, because that is what is at stake here. What is at stake here is not private manipulation of values or taking advantage of the Government.

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What is at stake here is the Government taking advantage of small property owners who can not afford to spend 10 years in the court of claims or the court of appeals, all the way to the Supreme Court, to prove that the Government took their property by devaluating first before they acquired it in an eminent domain situation, where the party did not have a chance to complain and address the issues in advance.

The gentleman is so correct. If we do not adopt this amendment, what we are left with is a situation where the Government can take advantage of small property owners who cannot afford to go to court and fight the Government, the Justice Department, to get justice in America. This amendment says to every small property owner, when your land is taken, you are not going to get some artificial value. You are going to get the real value before the Government took an action to devalue your property, and then tried to acquired it. It is so essential that we establish that in law for small property owners.

Mr. LEHMAN. Mr. Chairman, reclaiming my time, I thank the gentleman for his comments. I think we have the basic question of fairness. I wish we could deal with it in the larger context. I would suggest to Members listening, until we are given that opportunity here on the floor, we are going to continue to see this type of frustration, and maybe a clear vote here will send the right signal.

Mr. TAYLOR of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support for the Tauzin amendment. I think my colleague has laid

out a strong case for this amendment by detailing the Florida Rock case. There is another reason for supporting this amendment, and this debate shows the direction we are moving in. It talks about fundamental fairness for the American people.

It is unfair for anyone, especially a government green shirt, to come on to a person's land and declare that individual's land invaluable because of the government regulations that are placed upon it.

You know, we used to prosecute people in this country for devaluing land and running those types of scams, and then trying to come on and buy it at the lower prices. I believe HUD has regulations against that even today as we speak. And here is the Federal Government doing much the same thing.

The people of this country become wary of what the government does in the name of environmental protection. It is precisely because of this type of maneuvering that the public is concerned. If the government is going to pass strong environmental laws, it should pay the price.

Now, we have before us a bill cosponsored by the gentleman from Louisiana (Mr. Tauzin) and myself, which lies at the desk under a discharge petition, that would allow us to debate this. It would allow us to have a debate on the whole question of takings and how the public is to be compensated.

You know, one of the Members previously mentioned that because of the pressures of population gains, that there is going to be more and more need for the Federal Government to be taking properties, there is going to be more and more pressure for government management and control.

It is precisely because of that that we need to adhere to the protections of the Constitution more strongly than we do today. The fourth and fifth Amendments are going to become more and more important to protect the people of this country.

The Constitution and the Bill of Rights was passed not to protect us from foreign power, but to protect us from just this type of onerous hand of government. And that is why we as, 435 Members of Congress, ought to be the champions of constitutional rights for the people of this country, not thinking up ways to undercut it, not thinking of ways we can get a cheaper dollar for the government, not thinking of ways we can abuse those rights, but be the champions.

If we are going to err, let us err on the side of the people, not on the side of the bureaucrats.

Now, I served on the board of transportation and in the State legislature as the gentleman from Utah did, and I know there are times when condemnation needs to be used. We tried to find alternative ways.

When I first came to this Congress, we took up a bill in the subcommittee that I sat upon to take a farm that had been in a family's hands for hundreds of years, to provide a view shed for a corpse. Under condemnation of this government, we did that. Now, I do not consider that in an area of highest and public health and safety, which we ordinarily try to use condemnation for.

We know that in many types of legislation, we have reform systems, such as in our State, where the court got its fees from deciding cases. So, naturally, it had to find a lot of people guilty in order to get the funds to operate the court. We abolished that system years ago. Yet we are talking about the same system here.

The government, by pulling from its case a regulation that will devalue your property, can buy that property for a fraction of its value had it not applied those regulations. So it has an incentive

to always find a regulation to devalue in order to deprive that person of his fair market value and enable the government to buy it at a lower price.

This kind of chicanery should not be in any system that we have, and it is why we should pass the gentleman's amendment.

Mr. ORTON. Mr. Chairman, I move to strike the requisite number of words.

(Mr. ORTON asked and was given permissible to revise and extend his remarks.)

Mr. ORTON. Mr. Chairman, I rise in strong support of this amendment. I share the concerns of the subcommittee chairman that we not attempt to dictate in statutory language a specific fair market value. I also understand and share the concern of the chairman of the full committee that an amendment ought not to be just one way.

In fact, I do not believe this amendment is just one way. If we read the exact wording, it says lands and interests and lands acquired pursuant to this act shall be appraised without regard to the presence of.

It has nothing to do with just ignoring it if it devalues the land, but not ignoring it if it increases the value of the land. So it really does go both ways. I do not think the amendment is at fault in the language of the amendment.

I believe that one of the very strongest principles in this country protected by our Constitution is the right of ownership of private property. That has been defended in the courts. In fact, recently, a few years ago, in the Lucas case, as this body is well aware, the Supreme Court ruled that when the Government, whether it be Federal or local, when the Government acts through something such as a zoning ordinance, which the subcommittee chairman mentioned may lower the value of land, that that in fact is a taking, even though it is not a condemnation, even though it is not taking all of the rights of ownership of the property; that the very restriction of use through zoning or such ordinances can in fact be a taking which is compensable, which the Government must compensate.

Now, I believe that. In my opinion, the enlisting of endangered species or critical habitat is a similar taking, which must be compensated. I believe, in my opinion, that is in fact a taking.

I would encourage the Supreme Court that when that case appears before it, to find that similarly, under Lucas, to be a taking. I would encourage those people who have the money to pursue this to the Supreme Court to in fact do [*H5682] so, so that we can get a ruling under the court.

I would encourage this body to take up the Private Property Rights Act, so that we can deal with this in substance beyond just the Desert Protection Act, beyond just the Endangered Species Act, so we can deal with this issue of Federal Government action which lowers the value of property being a taking.

I believe it is. It must be under the Constitution, and it should be compensable. But until someone takes that to the Supreme Court, or until this body acts to pass the Private Property Rights Act, we should adopt this amendment so that specifically we are saying that the government cannot benefit by or that we cannot take away the person's property value.

The argument has been made very clearly by both the committee chairman and the subcommittee chairman that the listing of an endangered species or a critical habitat may very well, and often does, lower the value. Yet that is not being compensated.

So what this does is seek in this particular bill to say we are going to compensate them because

we are not going to appraise considering the listing of that species. We will appraise it without consideration of the listing of the species.

So I think it is a very good amendment, and would urge adoption of it.

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

Mr. ORTON. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, the gentleman raised the Lucas case. I have not read all the details. But the suggestion that if you have a zoning limitation and you reduce the value of the land regarding a zoning the gentleman, Mr. Orton, suggests that in that practice today for local governments, for State governments, in essence, is compensable and that they are or should be paying compensation.

Mr. Chairman, one of the critical elements I think missing in the discussion here is a black and white argument sort of being portrayed today, the issue of reasonableness. That is exactly the case of the Dolan legal case. So what we are entering into, of course, is not a question of whether it is a reasonableness in terms of use here with regard to this amendment and this very narrow use, but, obviously, we are arguing on a broader ban. But the proponents of the amendment are avoiding the issue of reasonableness, which is at the heart or core of what the courts actually decide, and we are putting in place and substituting our judgment by saying if it is an Endangered Species Act, you cannot consider it as to reducing that value the Federal Government pays for such property.

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Indeed, while I suggest and I think the chairman suggests that the Endangered Species Act could reduce the value of land because of limitations that are inherent in the use of it, it also may enhance it. I may want to have the Houston toad in my backyard. To me that may have something of value and I think to other individuals as well.

The CHAIRMAN. The time of the gentleman from Utah (Mr. Orton) has expired.

(By unanimous consent, Mr. Orton was allowed to proceed for 3 additional minutes.)

Mr. ORTON. Mr. Chairman, in response to the comments of the subcommittee chairman, indeed the Lucus case is a fairly narrow issue. But the concept that was identified in the Lucas case is that in order to be a compensable taking, you do not need to take the entire rights in the property, that a restriction such as a zoning restriction can in fact be compensable under the Constitution, under the takings clause. I think that is the point that I am raising.

Mr. VENTO. Mr. Chairman, if the gentleman will continue to yield, I think the question is one of reasonableness. Of course, it is not the operative function of our local governments, every time they have a reclassification, whether it increases or limits the use of the land, to either collect money on the increase or to pay money back on the decrease. In fact, that is a common activity, in fact, a major function of local and State government.

Mr. ORTON. Mr. Chairman, I appreciate the comment.

The point we are making is, I think, one in fact of reasonableness. The Supreme Court has said that the action, something less than taking the entire rights of the property, is in fact compensable under the Constitution. I am saying that we ought to take that case to the Supreme Court to determine if this is compensable. I believe it is, in my opinion. Until that is

done, I think it is very reasonable to say that when listing an endangered species or critical habitat which then clearly is a lowering value, it is reasonable for us to state that we are not going to reduce that property value through appraisal.

Mr. TAUZIN. Mr. Chairman will the gentleman yield?

Mr. ORTON. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, first of all, let me thank the gentleman for his fine statement in support of the amendment, particularly the argument that if every landowner has to go all the way to the Supreme Court to find out if the Government has taken his property, what awful mess we are in. How small landowners will be denied justice in America.

I hope Members appreciate the strength of that argument. The gentleman is correct. The court, in the Florida Rock Decision, said that zoning cases must in fact be judged on their reasonableness, but were there is shared benefit and burden, there is no taking. But if the burdens fall on the small class of landowners and the benefits fall to the public at large, under Florida Rock that is a taking.

That is what we are talking about here. We are talking about endangered species designation so that the public at large gets the benefit of environmental protection but a single small landowner has to lose the value of his property.

What we are saying in this amendment is, when the Government makes that kind of a decision, it ought not take advantage of that landowner by paying him the smaller degraded value. It ought to pay him the market value before the Government made the decision for the public good.

I also want to thank the gentleman for his support and point out that yesterday or the day before I stood up in support of eminent domain to say the Government does have a right to buy property for **wilderness** protection. What we are saying today is, when it does it for **wilderness** protection, it pays real market value, not an artificial value determined after the Government regulates it to death.

The CHAIRMAN. The time of the gentleman from Utah (Mr. Orton) has again expired.

(On request of Mr. Vento, and by unanimous consent, Mr. Orton was allowed to proceed for 3 additional minutes.)

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

Mr. ORTON. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I just want the attention of the gentleman from Louisiana, because I do not think there is any disagreement that if, indeed, the Federal Government were to be classifying something as an endangered species or putting some other type of limitation on land through its regulatory role and laws that we pass lawfully doing this, that in essence that they ought to be doing so with the intent of actually devaluing or reducing the value of the cost. In fact, the entire impetus of the Federal Government and the 18 land managers we have is to pay fair market value.

I think, as a matter of fact, I would say that very often that results in a higher cost, could result in a higher cost to be paid. We cannot pay less nor more than fair market value. So if there is a demonstration that there was actually an intention on the part of the Park Service, the Forest Service, any land management agencies to reduce the value and to take advantage of a citizen, I think that we would all be in the forefront seeking payment. I do not think there is any

demonstration or intention to do that. There is no design to use the law to achieve such objective, as I said earlier there is no conspiracy. [*H5683]

I find such suggestion not helpful in terms of this sensitive policy issue.

Mr. ORTON. Mr. Chairman, reclaiming my time, I do not know of anyone saying that that is the basis of this amendment, that there is some bad action on the part of the Park Service in doing so.

I would simply suggest that I agree with many of the goals of the Endangered Species Act. We do not want to eliminate species from Earth. But we ought to recognize that if it is important enough for this country and this country's laws to protect that species, it is important enough for us to belly up to the bar and pay for it.

Why should one landowner have to bear the brunt of protecting that species? If it is important enough for us to do it, let us pay for it. If we have to raise taxes to pay for it, raise taxes to pay for it. But we should not be imposing these requirements on individual landowners. That is the whole point of this argument.

By devaluing the property and then appraising it and purchasing it at lower value, we are placing the burden of protecting that species on one landowner and not on the public at large. If it is important enough for the public at large to do it, then pay for it.

I would urge the committee to adopt this resolution.

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

Mr. ORTON. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I just want to say, hallelujah.

Mr. THOMAS of California. Mr. Chairman, I move to strike the requisite number of words.

Thank goodness we have finally gotten to the heart of the debate in terms of this particular amendment-private property rights. I think it is ironic and it shows the gulf of the perceptions between two sides in terms of the dialogue that just occurred.

First of all, we are talking about the Endangered Species Act, an act which expired 2 years ago but which is being kept on life support because, frankly, if the Endangered Species Act were here on this floor, a similar debate would be taking place. And I believe a number of Members, especially the chairmen of both the committee and the subcommittee, would be hard-pressed to defend the Endangered Species Act as it is currently written. Why? Because there is no economic impact statement required in the Endangered Species Act. What is society doing when it requires an individual not to be able to use their land for legitimate purposes because there are endangered species on it? That land is taken. How much does that cost the individual? The value of the land and its uses.

The Tauzin-Hansen amendment goes to the heart of it, because it in fact shows what the economic expense would be. And that is, if you have a piece of private property and an endangered species is found on it, it is worth zero. The Tauzin-Hansen amendment is absolutely correct in requiring the Government to value the land on the basis of its market value without considering the Endangered Species Act. The difference between that property, its market value without considering the endangered species, and the zero worth of that land if you considered the Endangered Species Act, is the economic impact of the Endangered Species Act. So let us get honest here.

The reason the opponents of this amendment are scared to death of this amendment is because it truly shows the cost of the Endangered Species Act. The Endangered Species Act does not require a determination of the economic impact of a decision under the act, but the Tauzin-Hansen amendment would require the Government to own up on the actual societal cost of the Endangered Species Act.

I love the chairman's example of the golf course or his example of living next to the park and how valuable that makes the property and how we are not only living with mitigation today, but how mitigation helps people enhance the value of their land.

Let me tell my colleagues what is going on in my district. In my district we do not deal with golf courses for mitigation.

What do we deal with in my district? I represent an area which historically has the Tulare Lake. That was a lake formed by the Kern River, which ran down the Kern Canyon every year, one of the major white water rivers in the United States.

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That land would be flooded, and then when the sun came out, as it does in the Central Valley, the lake would shrink, sometimes almost drying up. The next season it would flood again. Then it would contract, and it would flood and contract in God's design.

Man came and built a dam, and the flow of that river was stopped or regulated by the dam. I have property owners who are attempting to release water on old Tulare Lake land to allow it to percolate back into the underground as it did historically, and the Government has said, "You cannot run water on that land." Why? Because there are endangered species on that land.

Wait a minute, wait a minute, before man ever came and built a dam, these endangered species were living where the lake had contracted, and then, guess what, when the water rose, what did the endangered species do? Ask where is Government to protect us? No. What did they do? They went to higher ground. Believe it or not, the kangaroo rat knows that when its hole is flooded and it ought to go to higher ground.

However, if somebody today tries to release water on what used to be the Tulare Lake basin and there is an endangered species there, they are fined by the Government. They are not allowed to use the land for what was its historic purpose.

Let me give another example, which is not a golf course. The United States has decided to build a Federal prison. We were building it on the west side of Kern County. Some of the land not used for the Elk Hill's Oil Preserve was appropriate land that is federally owned. We went to take a look at it for purposes of building a Federal prison. We could not build it there. Why? Because there are all kinds of endangered species there.

Interetingly enough, the count of endangered species on military reservations, on other Government property don't exist for purposes of a species count. If we have a Government reservation that is absolutely loaded with endangered species, but somebody has 10 acres just the other side of the Federal boundary, the person on the other side of the Federal boundary has to pay mitigation regardless of how many endangered species are on the Government side.

Now we try to build a Federal prison. We cannot do it because we have endangered species on the land. Where can we build a Federal prison? Thank goodness, Chevron Corp. had a 300 acre plot of land that they plowed religiously, did not plant anything there, but plowed it religiously, spring and fall, so that there would be no endangered species on it, and we were able to work a very reasonable deal for the taxpayer to acquire private property to build a Federal prison because we could not build it on Federal property. There was no determination of the actual cost

to society on that decision because of the Endangered Species Act.

The CHAIRMAN. The time of the gentleman from California (Mr. Thomas) has expired.

(By unanimous consent, Mr. Thomas of California was allowed to proceed for 3 additional minutes.)

Mr. THOMAS of California. Mr. Chairman, let met give one more example which is not a golf course, in terms of how wonderful this mitigation operation works. We have a gentleman who is an immigrant. He purchased some land. He wanted to engage in farming. The land was sold for farming purposes.

He went into hock to get a tractor to be able to pursue the American dream of the yeoman farmer in tilling the soil to produce the crop for market. As he tilled that soil, 42 Federal agents descended upon him. This gentleman, and it is very difficult for him to speak English, he tried to understand what was happening to him.

The Federal agents fanned out across the property, picked up pieces of fur, because he was disking the property for purposes of planting it, and he was arrested. Not only was he arrested, but his tractor was confiscated, just like the drug lords get their houses and their boats confiscated, because the Feds said it was a murder weapon.

The fellow who owned the tractor had the tractor held by the Feds. He [*H5684] could not get the money for it. This poor fellow is now subject to all kinds of fines and imprisonment because he tried to till the soil. He might have been able to pay hundreds of thousands of dollars to the Government to be able to till the soil, he might have been able to do it. This is not mitigation, it is blackmail.

What really bothers me the most is these folks talking about the fact that, gee, why will we not let Government do this, because then your property next to it will be more valuable. No, it will not. If you have that piece of property next to a park and there are endangered species on it, unless this amendment passes, your property is worth zero. Worse than it being worth zero, it is worth zero and you cannot do anything with it.

That ultimately is the biggest problem with this bill and with the Endangered Species Act without the Tauzin-Hansen amendment. It is the small landholder who is carrying 100 percent on their backs, the society's desire to protect endangered species. If society thinks it is important, society ought to pay for it.

What is the cost? What is the economic cost of paying for it? We do not know, because the Endangered Species Act does not require an economic impact statement. If the Tauzin amendment is passed, you will have it, what is the market value of the land versus zero, and the difference between the market value and zero is the economic impact of the Government's decision.

Mr. Chairman, all we are asking for in the Tauzin-Hansen amendment is for Government to own up to the societal cost of the Endangered Species Act; that if Government wants it, they ought to pay the market value for it.

If the Government believes preserving endangered species on the property is higher than the private use of the private person, then Government ought to pay for it. If we are honest, society ought to say that preserving endangered species is more important than the economic value that the land brings in use, society ought to pay the market value for it, because society says that preserving species is more important than the private use of the land.

However, I have a hunch that once society finds out exactly how much it costs, they are going to

say no way. Pass the Tauzin-Hansen amendment.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. HUNTER. Mr. Chairman, I want to thank my friend, the gentleman from California (Mr. Thomas), who just gave a great analysis of what has happened in the extreme, and I think I read the same case that he is referring to. I believe it was rats that the farmer was accused of murdering, and the tractor and disk were in fact confiscated.

Let me just say, as a Member who was doing some other things today and thought I had a few other places I had to be, I saw a piece of this debate on C-Span and I thought it was important to come down and participate in it, because I think this is a very important debate for this House to take up.

One of the most precious rights we have in this country is property rights. We have had a number of speakers who have alluded to it and talked about it. That is what Americans fought for, that is what people lined up by the thousands in land rushes in the last century to be able to get a piece of land that they could call their own, that they could build a home on, that they could farm. Property rights are a key to our society. They are a key to our prosperity. They are a key to our freedom.

Against that backdrop of a very important right, we have the necessary evil of condemnation. The problem with what we are doing in applying condemnation to property rights, in this case, and I want to speak strongly in favor of the Tauzin-Hansen amendment, is we are taking a necessary evil, that is, condemnation, and we are compounding it.

We are taking an agency in the Federal Government that has the power to devalue private property, and that means take a guy who is a plumber or a carpenter or another middle-class worker, who has put his weekly paycheck every year for the last 10 or 15 years at 8 or 9 or 10 percent interest to buy a piece of land at $ 50,000, and he finds that Government has taken away the value of his property, lowered it down to $ 20,000. In this case, in this particular bill, that same Government that devalued his land will now profit from that devaluation. That is bad policy, Mr. Chairman.

Mr. Chairman, we are a House that puts checks and balances in place to keep one part of the Government from getting too much control over people's lives. That is bad policy.

Mr. Chairman, obviously property owners who are going to be affected by this desert protection bill come from all walks of life. There are people that have little bitty homesteads out there where they put what is known as jackrabbit houses on them. Those are houses that working people in Southern California put up with $ 5 and $ 10 and $ 15 saved each week to be able to have a piece of property. They could not afford a piece of property, maybe, in urban San Bernardino or Los Angeles or San Diego County, so they go out to the desert and they own a piece of property out there.

Now the Government comes along and finds an endangered rat, in the case of California, and puts limitations on the use of that property, if they have not already built a house on it or built a structure on it, and now the same Government is going to profit from the devaluation it put in place. That is bad, and it is happening not just in California, but it is happening in farmland across the country.

It is happening everywhere where young Americans are going out and trying to save a few bucks every week and buy a piece of land, and find that their piece of land cannot be built on, it cannot be disked up. The only right that we are leaving our private property owners is the right to pay

taxes. That is the last right that Government reserves to them.

I want to thank the author of this amendment, the gentleman from Louisiana (Mr. Tauzin), and the gentleman from Utah (Mr. Hansen), who also cosponsored this amendment, for their insight and for their advocacy for working people in this country who want to be able to use their property.

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

Mr. HUNTER. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, let me go through some of the things, and why most of us are opposed to this bill. If we take a look at the whole agenda, we call some of the environmentalists Nazi environmentalists, and let me say why.

There are some that are very, very good, working for the good, working with business, working with the military. However, the agenda of some of these groups is total no growth.

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We had an amendment on this floor to where these environmentalists could come on to property without permission and check out things. That is private property rights.

In San Diego, there are areas in which we cannot build. We own our own land but we cannot build on it.

We purchase it, we have bought it, whether our home is on it or we have bought it for the future, but we cannot build in many cases because of the endangered species.

We had a fire in San Diego, a bad fire. Every summer the grass grows up and some of the people wanted to cut down weeds and grass in front of their homes. Because of the Endangered Species Act, they could not cut the grass. It was on national television. One guy said, "The heck with you. I'm going to cut it down." He did. He is the only guy with his house left that did not burn. The rest of them that did not because of the rule lost their homes. This is how degrading and this is how demeaning that this whole environmental movement has become in some directions.

There are some groups that are trying to work and ;not to extremes.

The CHAIRMAN. The time of the gentleman from California (Mr. Hunter) has expired. [*H5685]

(By unanimous consent, Mr. Hunter was allowed to proceed for 3 additional minutes.)

Mr. HUNTER. Mr. Chairman, I continue to yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, you were in the Hanoi Hilton and you spent some time as a POW. There you had no rights.

This is what is happening to American citizens. The Government is taking over their rights and using endangered species, parks and recreation, and so on, and that is not right, Mr. Chairman. I think you would agree with it. Would you want somebody to come into your home and be able to check it out, devalue it and say, "We are going to take your land. By the way, we are not going to give you fair market price, we are going to devalue it," something that you have invested in for your future. That is wrong, Mr. Chairman.

I have some other things that I will speak on my own time, but I know the gentleman from California wanted to yield to another gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, let me just say that north of my district, in Riverside, CA, we have what is known as a rat fund. A rat fund is the money that is put aside, I think there is something like $ 100 million in it now, and it comes from every young couple that wants to buy a piece of land and build a house. The rat fund is metered out to about $ 1,500 per lot. That means a young working couple who comes up and wants to buy a piece of land, they are going to pay interest on $ 1,500 for the next 30 years to support the rats.

Mr. Chairman, that may play well with those people that are so-called purists with respect to the Endangered Species Act, but what it has done in most of Southern California is it has made it so that 82 percent of our citizens do not have the economic wherewithal to buy the average home. One other driver of that price, of course, is the $ 5,000-increase in lumber per home that comes about as a result of protecting the spotted owl and closing off large areas of lumber supply.

Mr. Chairman, there is an encroachment on basic rights, basic centerpieces of the American dream, like home ownership, that is created by the acts that we have passed, including the Endangered Species Act, that are environmentally oriented. We have not inserted enough balance into these particular acts, and the Tauzin-Hansen amendment is one that inserts some balance. It says that the same Government that cuts your property in half cannot profit from that reduction. That is an important policy for us to pass and it is right for us in the House of Representatives to pass that policy.

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

Mr. HUNTER. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding. I can give one of the best examples. A fellow named Bowles in Texas who was in court for 10 years because he bought a subdivision lot in Missouri County, TX. His neighbors had houses on their lots. He was told in 1984 he could not build on that lot because of a Government decision.

The CHAIRMAN. The time of the gentleman from California (Mr. Hunter) has again expired.

(On request of Mr. Tauzin and by unanimous consent, Mr. Hunter was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. Mr. Chairman, if the gentleman will continue to yield, in 1984 he applied for a permit to build his house. The Government said, "No. We have decided that land is now wetland. We are going to protect it under environmental laws."

Mr. Bowles went to court. It took him 10 years. The Government argued that they ought to pay him only $ 4,500, which was the value of the lot after they said he could not use it. He argued in the court of claims, through the appeals court, back to the court of claims 10 years that the Government owed him the real value of his lot.

The court finally awarded him $ 55,000, the value of his real lot and punished the Government with interest, compounded daily since 1984. And the court pleaded with the Congress to make some law in this area, not to make every citizen spend 10 years in court to get justice. That is what this amendment is all about.

Mr. Chairman, we believe in the Endangered Species Act. We simply think when it devalues property that the Government ought not take advantage of that devaluation. When it purchases

property, it ought to pay the real value before it devalues the property.

Mr. HUNTER. I thank the gentleman.

Mr. THOMAS of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Wyoming.

(Mr. THOMAS of Wyoming asked and was given permission to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in support of the Tauzin amendment.

Mr. MILLER of California. Mr. Chairman, I would like to inquire as to whether or not there is an ability to get a time limit. I think we have been on this amendment about 11/2 hours.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and amendments thereto end in 40 minutes.

Mr. HAYES. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MILLER of California. Mr. Chairman, may I inquire of the manager of the amendment, is there any interest in arriving at a time limit?

Mr. TAUZIN. Mr. Chairman, the problem is, as I pointed out earlier, Members are just coming to the floor now. Members want to debate this who are not members of the committee. Members of the committee have a preferential right to debate. If we put a time limit on, all we are going to do is to hear a debate by the members of the gentleman's committee and not the other Members of the House. I would only urge the gentleman to allow a few other Members of the House at large to speak first and then perhaps we can talk about a time limit.

Mr. MILLER of California. The gentleman would be allowed under any consideration to manage the time and to give it to whomever he would like.

Mr. TAUZIN. I suggest the gentleman heard an objection by a Member of this House who does not serve on the committee the gentleman chairs. My concern is that they have a chance to speak too, and if we can assure them of a chance to speak, then perhaps we can reach an agreement. I see a lot more Members coming to the floor as this debate begins to catch their attention.

I would only urge, perhaps, that we go a little longer and see whether Members are getting a fair shot at debating.

The CHAIRMAN. An objection has been heard.

Mr. DeFAZIO . Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we certainly heard a number of horror stories here and that raises some concern. Let me relate a story on the other side of the issue. It involves both zoning by Government and the mining law.

In my district, some speculators from the State of Washington filed a claim in the Oregon Dunes National Recreation Area which predated the actual enactment of that as a recreation area. They followed this claim through after 20 years or so of litigation for sand as a scarce raw material given the judgment of one now-dead Forest Service geologist that it was rare sand as opposed to

common sand. They got the land for a few thousand dollars from the Federal Government. They have got a couple of problems. The State of Oregon has zoned it as natural resource land, which does not allow any consumptive use such as mining, so they have got a zoning problem there. Beyond that, they got it for a few thousand dollars from the Federal Government. The value of the land is recreational. Now they want the Federal Government to pay them tens of millions of dollars to buy back that which they bought for a few thousand dollars which certainly questions whether they ever really had any intent of mining this scarce sand resource.

What is being proposed here as the gentleman who preceded me, a couple before me in the well, he talked about the highest and best use under the Tauzin amendment. The highest and best [*H5686] use in this case would overturn the State zoning in this situation and would give these speculators tens of millions of dollars for a piece of Federal land in a recreation area for which they paid a few thousand because of a sand claim.

Beyond that, let us think. Let the American people think. What would we like our neighbor to do?

I come from a State where every acre of the State is zoned, but we are ready to grow and it is zoned fairly and people get just compensation when they are deprived of any beneficial use. That is required under the Federal Constitution. The issue is, what is highest and best use? Under this gentleman's proposal, highest and best use, I own a few acres of land, I think that my land-even though it is on the edge of a residential neighborhood, on the edge of the city-would make a really dandy low-level nuclear waste site.

The Government by edict has told me I cannot have a low-level nuclear waste site in the city of Springfield. I have been deprived of hundreds of millions of dollars of value for my acres of land because of edict by the Government and under this sort of legislation I would demand compensation.

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We are taking this to the point of overturning all States' rights, all capabilities of States to zone, when you go to this highest and best use, and you take it to its absurd lengths.

Let us get this debate back in context. The debate here really is, and there are a few well-intentioned people coming before us who truly have a concern here, and they have some horror stories to relate, and those should certainly be looked at, we have got to question the actions of the courts or the State legislatures in some of those areas, and that should be looked at.

But in this context with this debate without any prior consideration by committees, what we see is an attempt to derail a park which will benefit the future of the greatest State, the largest populated State in this country, and other people in the West who want to see some of these desert lands preserved for future generations. That is what is going on here. It is an attempt to derail the bill with an amendment many find objectionable.

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

Mr. D e FAZIO. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, obviously I know the intentions of the sponsor of the amendment with regards to the Endangered Species Act. One of the suggestions that came up in the debate was that you had to go all the way to the Supreme Court in order to deal with the modification of what is fair market value or just compensation, in other words, if there is a taking, and the reason for that is of course, that is the law of the land. That is where these decisions emanate from. You cannot change that in a lower court. An appeal process cannot change that. You have to go to the Supreme Court, because that is where the decisions are made. That is the law of the land.

We do not look to the statutes necessarily to define what is fair market value, so what you have and what is being suggested here in a modest way obviously, in a very narrow way, but obviously an expansive debate because of the dynamics of this issue, what is being suggested here is that we begin to rewrite those rules in this House floor and in this body and write them into law. But there is not general consensus on that, and obviously no one here, I do not think, would argue any of the laws we have passed, whether it is wetlands, whether it is clean water, whether it is the Endangered Species Act, or a host of other legislation dealing with toxic waste and so forth, that these laws are perfect, that they are not flawed. Indeed, they are and need to be modified. We do not want to enshrine certain values and certain conditions into what fair market value is, a decision that has emanated from the Supreme Court under the fifth amendment of the Constitution.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am going to spend just a minute, and I am going to yield to my friend, the gentleman from Louisiana (Mr. Hayes).

But let me tell you about some rights that have been violated in the past. We have gone through these.

Sludge in Colorado: I hunt, and I have been through those mountains, and it is terrible the pollution that mining companies have left in Colorado. It is terrible. Yes, you here me right, I say to the gentleman from Minnesota (Mr. Vento). That is a right, and it was violated

The Great Lakes and the pollution it went through that was a violation of rights, people's rights to enjoy the environment, and I agree with you on those things. It probably took some pretty strong-willed people to make sure over businesses interests and the rest of it to clean up those lakes.

There are property rights that were taken away, and even the military by putting in single-lined fuel tanks, it is costing us millions of dollars now to reclaim our Earth and so on. Those are legitimate things and things that I want, and I know the gentleman from Minnesota (Mr. Vento) and the gentleman from California (Mr. Miller) want to do the same thing.

This amendment, to me, goes to the middle of the road in taking care of people's rights that if I own a home or property and the Government says, "I want to take it," that is fine, under our existing laws, but where I draw the line and think it is wrong, and it is a Nazi tactic to come in and take it without giving me that compensation that that valuable land is worth, and the Government comes in and says, "I want to devalue that land, and then I want to pay you for it." That is where, to me, it is wrong.

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

Mr. CUNNINGHAM. I only have a little bit of time, and if they will give me extra time at the end, because I promised the gentleman from Louisiana I would give him time.

Mr. VENTO. We are under the 5-minute rule.

Mr. CUNNINGHAM. If you will not object when I ask for additional time, I will be happy.

That is the heart of this whole crunch, I think, is that the people that want to concrete the earth, the people that want to cause the sludge problems in the mining, and I agree with you, there are a lot of violations in our country, and I think we can work.

But to give someone compensation, to keep someone from their property rights without access

to a road, to keep somebody from hunting on land that we have hunted since the stone age time, those are the things that come to the heart of the agenda of the groups that are proposing this bill to stop property rights.

Now, there are some good things in the bill, and the gentleman from California (Mr. Miller) and I have talked about that, and so has the gentleman from Louisiana (Mr. Tauzin).

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

Mr. CUNNINGHAM. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I take the time to correct the record.

I will not let anyone stand in the well of the House and say that my intentions are to thwart the movement of this bill. That is not true.

Our intention is to get this issue debated and voted on, and we have been trying to get it debated and voted on for many, many, many months. This is the first time we have had that chance.

Second, our intention is not to damage or hurt or do anything to the Endangered Species Act. Nothing we say here changes the rules or the protection. We simply say that when the rules of the Endangered Species Act operate to devalue a person's property and then the Government comes in to buy it, they ought to pay the value first, not last, pay the real value, not the phony value created by the regulations.

Let me, if you will, read what the court said in the case of Bowles versus the United States, in answer to my friend's argument, and we will get him some time, in answer to my friend's argument that everybody ought to go to court to get an answer to this question. This is the court speaking:

The case presents in sharp relief the difficulty that current takings law forces upon both the Federal Government and the private citizen. The Government here had little guidance from the law as to whether its action was a taking in advance of a long and expensive course of litigation. The citizen likewise and little more precedential guidance [*H5687] than faith in the justice of his cause to sustain a long and costly suit in several courts. There must be a better way to balance legitimate public goals with fundamental individual rights.

We passed the civil rights law in this body to guarantee that every child, white, black, Hispanic, no matter what, had a chance to go to school in America, to sit wherever they wanted on a bus, to eat at a lunch counter, and we passed the civil rights law even though we had a constitutional protection. We did not say to every child in America, "You have got to go to court to find out whether you can go to school." We did not say to every person in America, "You have got to go to the Supreme Court to find out if you can eat lunch with the rest of us." We did not say in this Congress, "We are not going to vote on the civil rights law. We are going to leave it up to the courts to decide what our individual liberties are."

We are talking about the most important property-right vote we are going to face probably in this Congress.

Do we respect property rights enough to say the Government cannot take your property without paying for it? That is what this amendment is about. We ought to pass a law. The courts are begging us to pass a law, not to leave it to every poor citizen to have to go to court to find out what his rights are.

The CHAIRMAN. The time of the gentleman from California (Mr. Cunningham) has expired.

Mr. CUNNINGHAM. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes, and I will not ask for any additional time, and I will yield to my friend.

Mr. MILLER of California. Mr. Chairman, reserving the right to object, I am very reluctant to object. We know the leadership has additional legislation that they would like to bring to the floor, and I reluctantly object.

There are other Members who have not spoken, and maybe they will yield time.

Mr. CUNNINGHAM. Mr. Chairman, if the gentleman will yield, I understand. I am just trying to get time for the gentleman from Louisiana (Mr. Hayes).

Mr. MILLER of California. If we can get a time limit, Members could use the time however they want.

The CHAIRMAN. Objection is heard.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

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

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

What existing law has provided, and would continue to provide under this bill, is that when land is taken for a public purpose, Government must pay the owner at full market value.

This amendment would take us away from that principle. It would say the owner should be paid at market value as adjusted to reflect an estimate of what the market value would be if conditions were different than they are.

This would take us down a potentially dangerous road. Fair market value under existing conditions is something that is clear and well understood. Fair market value as adjusted for this or for that takes us into very speculative areas, very subject to dispute and litigation and delay.

For example, what if the property value is higher because of something Government has done, such as build a road nearby, or create a popular park. Should landowners' be paid less than fair market value because Government has raised the value higher than it would have been without Government action?

Furthermore, this amendment would require compensation that in many instances would create an unjustified windfall. In a case where someone buys land at low prices because ESA or any other law depresses that value, they could under this amendment turn around and sell it to the Government at a much higher price than they paid for it, reaping a large windfall at the expense of the taxpayers. That's not fair to the taxpayers.

These are the kinds of problems you get into once you depart from the longstanding principle of compensating landowners at fair market value.

I would urge my colleague not to send us down this slippery slope. I urge a "no" vote on the amendment.

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Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to my colleague in the neighboring district, the gentleman from California (Mr. Edwards).

Mr. EDWARDS of California. I thank the gentleman for yielding.

Mr. Chairman, I hope everybody listened to the gentleman's very cogent and accurate statement. I think most of us are watching with interest the confirmation proceedings, going on in the other body, of Judge Breyer, who is the President's nominee for the Supreme Court vacancy.

Judge Breyer was asked the day before yesterday what his interpretation of the fifth amendment's clause is which provides for compensation when the Government takes your property. Judge Breyer answered in the accurate historical way that the founders intended, which has been the law for 230 years and which now our friends on the other side are attempting to overturn. He said that this clause of the fifth amendment that says that the Government must pay for property that it confiscates or condemns is not an absolute right like freedom of speech or freedom of the press. Of course it is not; otherwise you would bankrupt Government. Second, Government would not be able to protect where we live.

You and I, the gentleman from California (Mr. Mineta), are on the San Francisco Bay, one of America's treasures. Before Government wisely intervened and limited the development and destruction of the San Francisco Bay more than one-third of it had been filled.

The CHAIRMAN. The time of the gentleman from California (Mr. Mineta) has expired.

Mr. MINETA. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. MILLER of California. Mr. Chairman, I must reluctantly object. I hate to do it to my colleagues, but I have objected when Members on the other side of the aisle have asked for additional time, and I must be fair.

I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. POMBO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to talk in support of this amendment and to talk a little bit about the debate that has been going on here this morning.

The statement that just came from my colleague, the gentleman from California, about the Supreme Court nominee's interpretation of the fifth amendment is very interesting. I did not see anywhere in the Constitution where they rank which rights were important and which ones took precedence.

I happen to believe that the fifth amendment and the protection of private property is just as important as the first amendment in the protection of free speech. There is no difference between the importance of either one.

We have heard a lot of interesting debate this morning and this afternoon on this topic. I heard one of my California colleagues speak earlier about the California Coastal Commission and how sometimes their actions cause the value of property to increase. Well, that is true. Sometimes their actions do cause the value of those that they decide can build, it causes their property values to increase dramatically. But those who are not so fortunate, who end up in the area that

cannot build, their property values immediately go to zero. Those are some of the tough decisions that local government is forced to make. That is some of the tough decisions I had to make as a city councilman before I came here, with respect to land use decisions.

What this amendment is attempting to do is not to overturn land use decisions, the State's rights or the individual's rights. What this amendment is attempting to do is to rein in the regulatory body that we have created called the Federal Government, because what is currently happening in this country today is the Federal Government is designating land critical habitat and then going out and buying it, then deciding that they are going out to buy it. [*H5688]

We have heard a lot about conspiracies. One of my colleagues made the comment that he did not believe that there was anything going on between the Government making a decision of what they were going to buy and then going to find an endangered species to fit it. Well, I happen to believe that that is going on, that they are making a calculated decision in finding endangered species that fit the areas in which they decide that they want to buy. In my home State of California you cannot find 1 square foot of that entire State that is not suitable habitat or habitat for an endangered species which is listed or is on the list of candidates. That is happening today.

The reason that we need this amendment, the reason that we need this amendment to pass, is because there are a number of property owners within the desert whose property is being devalued by the Federal Government and then the Federal Government is going to step in and purchase it at a reduced price. I believe they are doing it on purpose in this instance, and I believe that they have done this throughout this country. It is an incredible situation that needs to be rectified. This is our ability to step in and try to make a difference. This is our ability.

You know, the first day of session of the House of Representatives, we stand up and raise our hands and swear to uphold the Constitution of the United States. That is the inherent right of every one of us to make decisions based on what we feel the Constitution of the United States means. We have a responsibility as Members of this House to uphold the Constitution of the United States, which means protecting the fifth amendment as well as the first amendment and protecting peoples' private property rights .

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

Mr. POMBO. Mr. Chairman, I am happy to yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding.

Mr. Chairman, one of the previous speakers, our good friend, the gentleman from California (Mr. Edwards), pointed out a statement by Judge Breyer, who is attempting to become a member of the Supreme Court, regarding the fifth amendment.

Let me read to you what a majority opinion of the Supreme Court just said a couple of weeks ago on that very point regarding the sanctity of the fifth amendment protection:

We see no reason why the takings clause of the fifth amendment, as much a part of the Bill of Rights as the first amendment or the fourth amendment, should be relegated to the status of a poor relation in these comparable circumstances.

In short, the Supreme Court said the fifth amendment is as important as free speech, free practice of religion, press, assembly, and due process.

Ms. FURSE. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong opposition to this amendment.

It is entirely inappropriate and arbitrary to isolate and remove a single factor-presence of endangered or threatened species-in appraising a property's value.

What about the Government investment and subsidies that greatly increase the value of private property? I will give examples of these givings: Federally funded highways and bridges that provide easy access to otherwise inaccessible areas; tax benefits for farmers farming lands zoned exclusively for farm use; federally backed flood insurance that protects people who build in shoreline areas; federally acquired parks that provide an economic benefit for adjacent landowners; huge western water projects which provide low-cost water to irrigate otherwise unfarmable land.

The list of the givings goes on and on. But no property owner has ever paid compensation to the Federal Government for those taxpayer-funded Government investments that really amount to nothing less than private windfalls.

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Let us be consistent.

If the American taxpayers are going to be asked to pick up the full tab for the protection of endangered species on private lands, than let the American taxpayer be compensated for the taxpayer-funded investments that increase private property values. Our Federal Treasury, our Federal deficit, and our taxpaying constituents nationwide can afford nothing less.

Mr. PACKARD. Mr. Chairman, will the gentlewoman yield?

Ms. FURSE. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, has the gentlewoman thought of who pays for those public services, the bridges, the roads, that increase values? Those are taxpayers, and, when they do not increase the property values, there are ways of taxing that increase so in fact it is not the Government which is providing these services, it is the taxpayers.

Mr. MILLER of California. Mr. Chairman, will the gentlewoman yield?

Ms. FURSE. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, the point is that in fact, yes, there is $ 8 billion of unpaid cost to the Central Valley project, that it goes to the direct benefit of farmers in the Central Valley, and, when the Federal Government has to come along and buy that land, they want to sell us that land counting all of the value delivered there by the Federal Government. That is the point, and so there is no accounting system, and these properties that we are worried about under this act, they have country roads punched through, they have State highways punched through, they have Federal park lands and BLM roads, and without those the values of those lands are greatly diminished, but the gentleman does not say, "Isolate that." He does not say, "Isolate that," when we are considering that, that we do not have to count the value. The landowner comes in and says this is an inaccessible piece of land, but the gentleman says, "Yeah, but it's a county road, it's a BLM road, it's got fire suppression policy on it."

That is the point the gentlewoman is making. The gentleman only wants the Government to take the losers. He does not want the Government to recoup its costs, to recoup the benefits that it has bestowed upon these lands by governmental actions. He only wants the Government here to pay an artificially inflated price for the land.

I think the gentlewoman from Oregon (Ms. Furse) makes exactly the point. There is billions and billions of dollars that go into these lands throughout the country, throughout the country by

virtue of Federal action, by virtue of Federal action. We clean up the sewage. We build the highways. Yet nobody here is suggesting that the Government should have the ability to recoup those lands.

Mr. PACKARD. But if the gentlewoman would continue to yield-

Ms. FURSE. Reclaiming my time, Mr. Chairman, what we have to do is we have to balance takings with givings. That is the point. We have got to be consistent in the way we value Federal action.

Mr. FIELDS of Texas. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. FIELDS of Texas. Mr. Chairman, first of all I want to congratulate the gentleman from Louisiana (Mr. Tauzin) and the gentleman from Utah (Mr. Hansen). Certainly they have been in the vanguard of the property rights amendment in this House.

I would encourage my colleagues to read two things before they come to the floor to vote on this particular amendment, Mr. Chairman. First of all, I would ask that they read the 34 words of this simple amendment. I say, "Just read 34 words before you come to the floor."

Those 34 words are these:

Lands and interests in lands acquired pursuant to this act shall be appraised without regard to the presence of a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)

Mr. Chairman, that is all this amendment says, 34 words.

Then I would ask my colleagues to read 12 words, just 12 words, in the fifth amendment to our Constitution, and those 12 words are these: "nor shall private property be taken for public use without just compensation."

What we are really arguing about today, Mr. Chairman, is what is just compensation. It is not just compensation [*H5689] if the Federal Government makes a decision and in essence takes a person's property, denies that private property owner of their use of that property by declaring an endangered species.

Now, if people think that will not happen, that argument was made in the Florida Rock case where the Government came forward and said because a property was going to be designated or would fall under the wetlands designation, "You had to account the value based on the private landowner not being able to use that particular private property."

So, Mr. Chairman, there is a reason for this amendment, a sincere and real reason for this particular amendment.

Now, if my colleagues wonder why some of our colleagues oppose this amendment, something that is so simple on its face, particularly after they read the amendment, and then they read those 12 words in the Constitution, the answer is we have some colleagues in this House who put the Endangered Species Act, the Clean Water Act, wetlands, other Federal agency decisions, about the Constitution, and they are afraid ;of the ramifications, that the Government has to pay the real value of property that is denied to the private landowner.

Now for those who might think that there are no more horror stories, just this week in Texas we found out that the U.S. Fish and Wildlife Service is prepared to designate 33 Texas counties as

critical habitat for the endangered golden cheek warbler. That is 20.5 million acres in the central and southwest regions of our State. That would be three times as big as the protected home of the Northwest northern spotted owl.

But I think it is really compelling to look at what was said by the biologist in this particular instance, Mrs. Carol Beardmore. She said the regulations would have little effect on private landowners. She said for the private landowner it is more just a means of education, telling them that habitat within this area is essential or considered important for the recovery of the species. She went on to say that is major effect would be to require all Federal agencies within that 33-county area, the 20 million acres, to consult with the Wildlife Service on activity that might harm the species of that habitat. It is that naive thinking; that is, that type of taking, that we are attempting to address today with what is a simple amendment.

I will close with this, Mr. Chairman. The Tauzin-Hansen amendment is essential. It is egregious to think that the true value of property, that compensation would not be paid. Without looking at the real value there is no just compensation, and I am going to close with this sincere admonition to my colleagues. I say:

Woe to the colleague who votes against this amendment because they're saying to each property owner and their district that the government can take their private property without paying just compensation.

Mr. HAYES. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. HAYES. Mr. Chairman, the most extraordinary thing that has occurred today is a fundamental positioning on those who will vote for and against this amendment. Despite the individual instances in which specific references were made, it really boils down to what one believes is government and what one believes is people.

Over two centuries ago, Mr. Chairman, in the first year, the first Congress, Mr. Madison carried to New York the papers for Mr. Jefferson which included 12, that became finally 10, amendments. The question to be decided here today is whether Government derives its power from people or whether Government somehow is above and elevated beyond people. I suggest to my colleagues that the message of that First Congress, those who knew people who had fought and died to make the country free and to whom the name "America" was not new was that the individual people granted to Government its powers.

Now contrast that to young Wayne Dominque in my district who is told by Government and an agency that he cannot on his own land put crawfish, and water, and rice together because he violated an obscure 20-year-old permit process under a Clean Water Act intended to do an entirely different thing, or those under an Endangered Species Act who find a survey made by Fish and Wildlife in order to reduce the value of their property because they wanted it for 20 years, and now they found a way.

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I hearken back to Mr. Wayne Dominque, who realizes that if, instead of crawfish and rice in the back of that yard, he was growing marijuana and selling crack, the Government would have had a giving for him. They would have given him a free lawyer; they would have given me an exhaustive remedy in the process; they would have given him a free library if he went to jail; they would have given him years of appeals. But instead, he has no rights, no remedy, and he is told he has one thing he can do-go to the courts, seek the fifth amendment, and pay what is an average of $ 250, 000 per American.

In other words, the message that government gave him was that his country stands for rich people, and "If you have the money, then we'll give you some rights. If you don't then we won't, and we will simply knuckle and muscle you under." That combination of arrogance and ignorance has led to the floor debate here today.

So those with a vengeance have seen the individual disasters and indeed onerous consequences of mindless bureaucracy without any humanity or thought whatsoever, watching foreclosure and losses, watching financial institutions not knowing how to value a dime of property, or watching those who want the legislative authority to "pull the bill under endangered species with a national biological survey and instead do it only through an appropriation bill with no legislative authority."

What we are saying today is the consequence of when a minority of the whole is a majority of one party and they tried to force a minority interest down our throats with a vote, and within a few minutes we are going to have one.

I wish those who believe so much in freedom of democracy and representative government would notice the outcome of that vote and have a few more votes. That is what the people want, and that is what Government does not want. They can decide now what they represent, either the people or an entity which no one can any longer be willing to embrace.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I yield to the gentleman from Texas (Mr. Bonilla).

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

Mr. BONILLA. Mr. Chairman, I rise in support of the Tauzin amendment.

Mr. GILCHREST. Mr. Chairman, I yield to the gentleman from California (Mr. Packard).

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

Mr. PACKARD. Mr. Chairman, I rise in strong support of the Tauzin-Hansen amendment.

LAND DEVALUED BECAUSE OF MEDDLING GOVERNMENT ACTION AND ENFORCEMENT OF EXTREME ENVIRONMENTAL LAWS IS BEING EXTORTED FROM HARD-WORKING TAXPAYING CITIZENS BY THE FEDERAL GOVERNMENT.

IN MY DISTRICT I CAN GIVE YOU SEVERAL RECENT EXAMPLES OF GOVERNMENT VIOLATING THE RIGHTS OF PRIVATE PROPERTY OWNERS: 121 ACRES OF MOST BEAUTIFUL PROPERTY IN DANA POINT VALUED AT OVER $ 1.5 MILLION AN ACRE IS BEING TAKEN FROM A PROPERTY OWNER BECAUSE OF THE DISCOVERY OF 39 POCKET MICE, AN ANIMAL ON THE ENDANGERED SPECIES LIST. YEARS OF PLANNING FOR THE USE OF THIS LAND HAD TO BE ABANDONED. THE OWNER EVEN OFFERED TO SET ASIDE FOUR ACRES OF HIS LAND JUST FOR THE MICE, ABOUT $ 150,000 PER MOUSE, BUT THE GOVERNMENT SAID THAT WASN'T ENOUGH AND WANTED MORE.

IN ANOTHER INSTANCE, A PROPERTY OWNER WAS ON THE VERGE OF SELLING HIS PROPERTY IN ESCROW FOR SEVERAL MILLION DOLLARS, THEN THE CITY DECLARED IT WETLAND. HE WAS THEN OFFERED $ 1 AN ACRE FOR THIS USELESS WETLAND. THIS IS A TRAVESTY.

THE CITY OF CARLSBAD, IN ITS QUEST TO RELIEVE CONGESTION OF A LOCAL HIGHWAY, WAS THWARTED IN ITS PLAN TO ENLARGE AND IMPROVE THE HIGHWAY WHEN A GNATCATCHER WAS SEEN DARTING IN FRONT OF A CAR. CONSTRUCTION WAS HALTED IMMEDIATELY. [*H5690]

MY COLLEAGUE FROM CALIFORNIA, MR. BILL THOMAS, JUST ILLUSTRATED THE PLIGHT OF THE POOR FARMER WHO RAN OVER THE KANGAROO RAT WITH HIS TRACTOR. THE LAWS PROTECTING THIS RAT RESULTED IN LOST HOMES TO FIRE WHEN HOMEOWNERS WERE PROHIBITED FROM CUTTING THE BRUSH NEAR THEIR HOMES.

THESE EXAMPLES ILLUSTRATE THE ASSAULT ON PRIVATE PROPERTY RIGHTS. YOU CAN'T SELL IT, YOU CAN'T BUILD ON IT, BUT YOU MUST CONTINUE TO PAY TAXES ON IT-AND THAT IS CONFISCATION. IF THE GOVERNMENT IS GOING TO CONFISCATE YOUR LAND, THEY MUST REIMBURSE YOU THE FAIR MARKET VALUE FOR THAT LAND. I ENCOURAGE MY COLLEAGUES TO SUPPORT THE TAUZIN-HANSEN AMENDMENT.

Mr. GILCHREST. Mr. Chairman, I would like to start by saying this is the people's house, this is where we debate, and this is where we reflect the Nation's wishes, and I want to make the comment that I know a number of people who want this Government to create laws and regulations that will in fact preserve the quality of life for ourselves and for future generations. In my judgment, that means a vote against this particular amendment.

I also want to make this comment: The gentleman from Texas (Mr. Fields) read Mr. Tauzin 's amendment, and I will not read it again, but basically it says that "Species listed as threatened or endangered" cannot be considered as far as the value of the property is concerned when the Government is going to compensate.

Does that mean that if the endangered species actually increase the value of that land, then the Government cannot take the increased value into consideration?

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

Mr. GILCHREST. I will yield after I have finished.

Mr. Chairman, I think that has to be taken into consideration. A basic law of real estate is that property is like owning a bundle of sticks. Property can be used for a variety of things. The emphasis is on the entire bundle, not just on one stick.

A number of Members have referred to the Florida Rock case. In the Florida Rock case, there was an individual who bought a piece of property for $ 1,900 an acre. He could have sold that for $ 4,000 an acre, which is what I think a considerable profit, but he wanted to sell it for $ 10, 000 an acre to put a rubble field there right over a wetland. And we understand the value and function of the wetland. The court did rule in his favor, but that is still circulating in the Federal courts. I think $ 4,000 is a considerable amount of profit that he could have made.

There are two more points as far as Supreme Court decisions are concerned dealing with the takings law. No. 1, there is no absolute right of use, and the Supreme Court has said: "No one has an absolute right to use his property in a manner that may harm the public health or welfare, or damage the interests of neighboring landowners or the community as a whole."

No. 2, reasonable return or use: "Property owners have a right to a reasonable return or use of their land, but the U.S. Constitution does not guarantee that the most profitable use will be allowed."

Mr. Chairman, I want to bring in another dimension to this debate, which is something for people to consider. In 1790 the entire population of the United States was 4 million people. In 1890 the population was 76 million. In 1990 the population was 250 million people. What will it be in the year 2090?

The quality of our existence depends upon our ability to manage our growth. We talk a great

deal about the wise and frugal use of our resources. We debate here very often and very passionately about the Federal deficit and why we have to use the taxpayers' money wisely. Land use and our resources, including the full range of species, should be managed to preserve the quality of life for us today and for future generations.

Mr. Chairman, I ask the Members to please take these things into consideration. I respect my colleague, the gentleman from Louisiana (Mr. Tauzin), but I urge a "no" vote on his amendment, and I yield now to my colleague, the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

The agreement we have is that the gentleman is yielding and I might close on the amendment and then we might go to a vote.

Let me first thank all the Members for what I think is an excellent debate on the point.

The issue before us is not whether we believe in the Endangered Species Act, whether we like it or dislike it. I happen to believe in it. I think we could reform it to make it better.

The issue is the most important one we are going to face on property rights in this session of Congress, and that is whether or not people will be compensated fully and fairly for the value of their property when it is taken under eminent domain for this park, and that is the eminent domain that I supported just a few days ago. The right of the Government to take the property for purposes of the park is in the bill. What we are now saying is that the right of the owners of the private property to be fully compensated should also be in the bill.

Let me make it clear. Current law does not let that owner get enhanced value because of the Endangered Species Act. Our amendment does not do that. Our amendment simply says the owner should be fully compensated without regard to the devalued property because of the application of the Endangered Species Act.

Mr. Chairman, I think the agreement was that I would close on the amendment, and so I urge a "yes" vote on the amendment, the most important property rights amendment in this session of Congress.

Mr. MILLER of California. Mr. Chairman, I yield to the gentleman from California (Mr. Brown).

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

MR. BROWN OF CALIFORNIA. MR. CHAIRMAN, THE AMENDMENT OFFERED BY MR. TAUZIN IS ANOTHER IN A LINE OF RECENT ATTEMPTS TO BANKRUPT THE FEDERAL TREASURY AND REINTERPRET THE FIFTH AMENDMENT. I RESENT THE SUGGESTION THAT GOVERNMENT REGULATION IS A PRIMARY FORCE IN DIMINISHING THE VALUE OF EITHER PUBLIC OR PRIVATE PROPERTY. THIS COUNTRY IS MORE THAN A COLLECTION OF INDIVIDUALS. WE ARE A COMMUNITY AND ALL OF US MUST MAKE SOME SACRIFICES TO MAKE THIS WORK.

WITHOUT THE INPUT OF FEDERAL FUNDS AND REGULATIONS, WE WOULD NOT HAVE THE AGRICULTURAL FIELDS THAT WE NOW HAVE THROUGHOUT SOUTHERN CALIFORNIA. BY PROVIDING WATER TO THE DESERT THE GOVERNMENT HAS INDEED MANIPULATED THE VALUE OF LAND IN SOUTHERN CALIFORNIA AND IT HAS INCREASED IT SUBSTANTIALLY WITH INPUT OF FUNDS THAT WERE COLLECTED FROM CITIZENS THROUGH THIS COUNTRY.

THE COURTS WILL AND SHOULD CONTINUE TO MEDIATE ANY DISPUTES THAT ARISE IF A LANDOWNER FEELS THAT HE OR SHE HAS BEEN TREATED UNFAIRLY. THIS AMENDMENT HAS NO PLACE IN THIS DESERT BILL OR IN ANY OTHER BILL OFFERED IN THE HOUSE.

THIS BILL DOES NOT KEEP PRIVATE LANDOWNERS FROM UTILIZING THEIR LAND. THIS BILL WILL INCREASE THE PRESENT AND LONG-TERM VALUE OF THIS LAND FOR INDIVIDUALS AND FOR THE CITIZENS OF THIS NATION.

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

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Louisiana (Mr. Tauzin).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were-ayes 281, noes 148, not voting 10, as follows:

(Roll No. 325)

AYES-281

Ackerman Allard Andrews (TX) Applegate
Archer Armey Bachus (AL)
Baesler Baker (CA) Baker (LA)
Ballenger Barca Barcia
Barlow Barrett (NE) Bartlett
Barton Bateman Bentley
Bereuter Bevill Bilbray
Bilirakis Bliley Blute
Boehner Bonilla Brewster
Brooks Browder Brown (OH)
Bryant Bunning Burton
[*H5691] Buyer Callahan Calvert
Camp Canady Cantwell
Castle Chapman Clement
Clinger Coble Coleman
Collins (GA) Combest Condit
Cooper Costello Cox
Cramer Crane Crapo
Cunningham Danner Darden
de la Garza Deal DeLay
Diaz-Balart Dickey Dicks
Dooley Doolittle Dornan
Dreier Duncan Dunn
Edwards (TX) Ehlers Emerson
Everett Ewing Fazio
Fields (TX) Fish Flake
Fowler Franks (CT) Frost
Gallegly Gekas Gephardt
Geren Gillmor Gilman

Gingrich Glickman Goodlatte
Goodling Gordon Grams
Grandy Green Gunderson
Hall (OH) Hall (TX) Hamilton
Hancock Hansen Harman
Hastert Hayes Hefley
Hefner Herger Hilliard
Hobson Hochbrueckner Hoekstra
Hoke Holden Horn
Houghton Hoyer Huffington
Hughes Hunter Hutchinson
Hutto Hyde Inglis
Inhofe Inslee Istook
Jacobs Johnson (CT) Johnson (GA)
Johnson, Sam Kaptur Kasich
Kim King Kingston
Kleczka Klein Klink
Knollenberg Kolbe Kreidler
Kyl LaFalce Lambert
Lancaster LaRocco Laughlin
Lazio Leach Lehman
Levy Lewis (CA) Lewis (FL)
Lewis (KY) Lightfoot Linder
Lipinski Livingston Lloyd
Long Lucas Machtley
Manzullo Margolies-Mezvinsky Martinez
Mazzoli McCandless McCloskey
McCollum McCrery McDade
McHale McHugh McInnis
McKeon McMillan McNulty
Meyers Mica Michel
Miller (FL) Minge Molinari
Mollohan Montgomery Moorhead
Murphy Murtha Myers
Neal (NC) Nussle Ortiz
Orton Oxley Packard
Parker Pastor Paxon
Payne (VA) Penny Peterson (FL)
Peterson (MN) Petri Pickett
Pombo Pomeroy Portman
Poshard Price (NC) Pryce (OH)
Quillen Quinn Rahall
Ramstad Ravenel Reed
Regula Ridge Roberts
Roemer Rogers Rohrabacher
Rose Roth Roukema
Rowland Royce Sangmeister
Santorum Sarpalius Sawyer
Schaefer Schiff Sensenbrenner
Shaw Shuster Sisisky
Skeen Skelton Smith (IA)
Smith (MI) Smith (OR) Solomon
Spence Spratt Stearns
Stenholm Strickland Stump
Stupak Sundquist Swett
Swift Talent Tanner

Tauzin Taylor (MS) Taylor (NC)
Tejeda Thomas (CA) Thomas (WY)
Thornton Thurman Torkildsen
Traficant Upton Valentine
Volkmer Vucanovich Walker
Walsh Wheat Whitten
Williams Wilson Wise
Wolf Young (AK) Young (FL)
Zeliff

NOES-148

Abercrombie Andrews (ME) Andrews (NJ)
Bacchus (FL) Barrett (WI) Becerra
Beilenson Berman Blackwell
Boehlert Bonior Borski
Boucher Brown (CA) Brown (FL)
Byrne Cardin Clay
Clayton Clyburn Collins (IL)
Collins (MI) Coppersmith Coyne
de Lugo (VI) DeFazio DeLauro
Dellums Derrick Deutsch
Dingell Dixon Durbin
Edwards (CA) Engel English
Eshoo Evans Faleomavaega (AS)
Farr Fawell Fields (LA)
Filner Fingerhut Foglietta
Ford (MI) Ford (TN) Frank (MA)
Franks (NJ) Furse Gejdenson
Gibbons Gilchrest Gonzalez
Goss Greenwood Gutierrez
Hamburg Hastings Hinchey
Hoagland Jefferson Johnson (SD)
Johnson, E. B. Johnston Kanjorski
Kennedy Kennelly Kildee
Klug Kopetski Lantos
Levin Lewis (GA) Lowey
Maloney Mann Manton
Markey Matsui McDermott
McKinney Meehan Meek
Menendez Mfume Miller (CA)
Mineta Mink Moakley
Moran Morella Nadler
Neal (MA) Norton (DC) Oberstar
Olver Owens Pallone
Payne (NJ) Pelosi Pickle
Porter Rangel Reynolds
Richardson Ros-Lehtinen Rostenkowski
Roybal-Allard Rush Sabo
Sanders Saxton Schenk
Schroeder Schumer Scott
Serrano Sharp Shays
Shepherd Skaggs Slaughter
Smith (NJ) Snowe Stark
Stokes Studds Synar
Thompson Torres Torricelli

Towns Tucker Underwood (GU)
Unsoeld Velazquez Vento
Visclosky Waters Watt
Waxman Weldon Woolsey
Wyden Wynn Yates
Zimmer

NOT VOTING-10

Bishop Carr Conyers
Gallo McCurdy Obey
Romero-Barcelo (PR) Slattery Smith (TX)
Washington

1357

The Clerk announced the following pair:

On this vote:

Mr. Smith of Texas for, with Mr. Conyers against.

Messrs. de LUGO, JEFFERSON, and DURBIN changed their vote from "aye" to "no."

Mr. INSLEE, Mr. FISH, and Mrs. ROUKEMA changed their vote from "no" to "aye."

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

MRS. LOWEY. MR. CHAIRMAN, I RISE TODAY IN STRONG SUPPORT OF H.R. 518, THE CALIFORNIA DESERT PROTECTION ACT. CHAIRMAN MILLER AND REPRESENTATIVE LEHMAN ARE TO BE COMMENDED FOR THEIR HARD WORK IN BRINGING THIS IMPORTANT LEGISLATION TO THE FLOOR. I URGE MY COLLEAGUES TO SUPPORT THIS LANDMARK CONSERVATION EFFORT.

THE CALIFORNIA DESERT IS ONE OF OUR MOST PRECIOUS NATURAL RESOURCES. THE 25 MILLION ACRES WHICH COMPRISE THE DESERT ARE HOME TO THE WORLD'S LARGEST JOSHUA-TREE FOREST, MORE THAN 90 MOUNTAIN RANGES, AND OVER 2,000 SPECIES OF PLANT AND ANIMAL LIFE, MANY OF THEM THREATENED OR ENDANGERED. THE DESERT ALSO SERVES AS A SANCTUARY FOR THE ALMOST 20 MILLION RESIDENTS OF SOUTHERN CALIFORNIA SEEKING REFUGE FROM EXPANDING CITIES AND GROWING POLLUTION.

THE DESERT'S PROXIMITY TO ONE OF THE WORLD'S LARGEST URBAN AREAS IS, HOWEVER, A MIXED BLESSING. LOW ANNUAL RAINFALL AND HIGHLY VARIABLE TEMPERATURES MAKE THE DESERT EXTREMELY FRAGILE AND THE DAMAGE DONE BY ENCROACHING DEVELOPERS AND IRRESPONSIBLE CAMPERS ALMOST IMPOSSIBLE TO REPAIR.

FOR THIS REASON, IT IS CRITICAL THAT LEGISLATION LIKE H.R. 518 BE ENACTED INTO LAW. THE ALMOST 9 MILLION ACRES SET ASIDE BY THE BILL AS PROTECTED AREAS REPRESENT A CRUCIAL STEP IN THE PRESERVATION OF A NATIONAL TREASURE. FOR THE FIRST TIME, NEW MINING AND MINERAL LEASING CLAIMS WOULD BE PROHIBITED, AS WOULD INCREASED LEVELS OF LIVESTOCK GRAZING. THE NEW MOJAVE NATIONAL PARK, AS WELL AS THE EXPANDED JOSHUA TREE AND DEATH VALLEY NATIONAL PARKS, WILL PROVIDE US WITH THE UNIQUE OPPORTUNITY TO SAFEGUARD A PRICELESS AND IRREPLACEABLE ASSET.

I URGE MY COLLEAGUES TO JOIN ME IN THIS EFFORT TO GIVE THE CALIFORNIA DESERT THE

PROTECTION IT NEEDS AND DESERVES.

VOTE "YES" ON H.R. 518.

MR. PACKARD. MR. CHAIRMAN, I RISE IN OPPOSITION TO H.R. 518, THE SO-CALLED DESERT PROTECTION ACT. THIS BILL IS AN ILL-CONCEIVED PIECE OF LEGISLATION THREATENING NATIONAL PARK SERVICE OPERATIONS THROUGHOUT THE COUNTRY.

H.R. 518 EPITOMIZES THE FEDERAL GOVERNMENT'S INCLINATION FOR BIGGER BUREAUCRACY BY CREATING THREE NEW NATIONAL PARKS IN A SYSTEM WHICH IS HAVING TROUBLE SUSTAINING ITS CURRENT OPERATIONS. THE NATIONAL PARK SERVICE'S OWN ESTIMATES SHOW SHORTFALLS OF UP TO $ 9 BILLION. THE 367 EXISTING UNITS OF THE NATIONAL PARK SYSTEM ALREADY STRUGGLE WITH DETERIORATED FACILITIES FOR VISITORS, POOR ROADS, AND PERSONNEL SHORTAGES.

SO WHERE IS THE MONEY GOING TO COME FROM TO CREATE THESE THREE BRAND NEW PARKS WITH TOTAL ACREAGE EXCEEDING TWO YELLOWSTONES? THE ANSWER-FUNDS WILL BE SIPHONED AWAY FROM THE PARK IN YOUR AREA. SECRETARY BABBITT HAS STATED OVER AND OVER THAT NO NEW MONEY WILL BE PROVIDED FOR THE NEW PARKS. INSTEAD, THESE NEW PARKS WILL BE ABSORBED INTO THE NATIONAL PARK SERVICE'S ALREADY OVERBURDENED BUDGET.

FURTHERMORE, I ASK MY COLLEAGUES TO CONSIDER THE PARKS IN THEIR AREA. HOW MUCH FARTHER DOWN ON THE LIST WILL IT FALL FOR CONSTRUCTION AND MAINTENANCE PROJECTS WHEN THE PARK SERVICE IS SADDLED WITH THE BURDEN OF SUSTAINING THREE NEW PARKS.

AS A MEMBER SERVING ON THE APPROPRIATIONS SUBCOMMITTEE CHARGED WITH FUNDING THE NATIONAL PARK SERVICE, I AM ACUTELY AWARE OF THE CURRENT FISCAL CRISIS FACING THE NATIONAL PARK SERVICE. DURING THE FISCAL YEAR 1994 APPROPRIATIONS HEARINGS, OFFICIALS LAMENTED THE FACT THAT THERE ALREADY EXISTS A BACKLOG OF $ 2.1 BILLION IN NATIONAL PARK SERVICE CONSTRUCTION-PROJECTS, ALREADY APPROVED, STILL AWAITING FUNDS TO GET STARTED.

THE NEW PARKS CREATED IN H.R. 518 WILL ONLY DRAW SCARCE FUNDS AWAY FROM THE MAINTENANCE OF PARKS IN YOUR AREA. WHAT GOOD ARE NATIONAL PARKS IF THEY CANNOT BE MAINTAINED AT A LEVEL WHICH MAKES THEM ACCESSIBLE.

MR. CHAIRMAN, I HOPE MY COLLEAGUES WILL KEEP IN MIND THAT THE CONSEQUENCES OF THE CALIFORNIA DESERT PROTECTION ACT ARE NOT LIMITED TO CALIFORNIA'S BORDERS. THEY WILL REACH INTO EVERY NATIONAL PARK IN THE COUNTRY. VOTE TO DEFEAT THE CALIFORNIA DESERT PROTECTION ACT.

1400

Mr. MILLER of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Swift) having assumed the chair, Mr. Peterson of Florida, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 518) to designate certain lands in the California desert as **wilderness,** to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes, had come to no resolution thereon.