

1 MORNINGSIDE PARTNERS, LLC

2 MEETING TO APPROVE: SUBCOMMITTEE ASSIGNMENTS  
3 FOR REPRESENTATIVE JUDY CHU; AND  
4 MARKUP OF: H.R. 3596, THE "HEALTH  
5 INSURANCE INDUSTRY ANTITRUST ENFORCEMENT ACT  
6 OF 2009";  
7 RATIFICATION OF IMMIGRATION RULES OF PROCEDURE  
8 AND STATEMENT OF POLICY FOR PRIVATE  
9 IMMIGRATION BILLS AND RULES OF PROCEDURE FOR  
10 PRIVATE CLAIMS BILLS;  
11 H.R. 42, THE "COMMISSION ON WARTIME RELOCATION  
12 AND INTERNMENT OF LATIN AMERICANS OF JAPANESE  
13 DESCENT ACT";  
14 H.R. 1425, THE "WARTIME TREATMENT STUDY ACT"; AND  
15 H.R. 3237, TO ENACT CERTAIN LAWS RELATING  
16 TO NATIONAL AND COMMERCIAL SPACE PROGRAMS AS  
17 TITLE 51, UNITED STATES CODE, "NATIONAL AND  
18 COMMERCIAL SPACE PROGRAMS"  
19 Wednesday, October 21, 2009  
20 House of Representatives,  
21 Committee on the Judiciary,

22 Washington, D.C.

23 The committee met, pursuant to call, at 10:15 a.m., in Room  
24 2141, Rayburn House Office Building, Hon. John Conyers  
25 [chairman of the committee] presiding.

26 Present: Representatives Conyers, Boucher, Nadler,  
27 Scott, Watt, Jackson Lee, Waters, Delahunt, Wexler, Cohen,  
28 Johnson, Pierluisi, Quigley, Chu, Gutierrez, Baldwin,  
29 Gonzalez, Weiner, Schiff, Sanchez, Wasserman Schultz, Maffei,  
30 Smith, Sensenbrenner, Coble, Goodlatte, Lungren, Issa,  
31 Forbes, King, Franks, Gohmert, Jordan, Poe, Chaffetz, Rooney,  
32 and Harper.

33 Staff present: Perry Apfelbaum, Staff Director/Chief  
34 Counsel; Ted Kalo, General Counsel/Deputy Staff Director;  
35 George Slover, Legislative Counsel/Parliamentarian; Sean  
36 McLaughlin, Minority Chief of Staff/General Counsel; Allison

37 Halataei, Minority Deputy Chief of Staff/Parliamentarian; and

38 Anita L. Johnson, Clerk.

39 Chairman Conyers. [Presiding.] Committee will come to  
40 order. Good morning. I call for a quorum—quorum call.

41 Clerk will call the roll.

42 The Clerk. Mr. Conyers?

43 Chairman Conyers. Present.

44 The Clerk. Mr. Berman?

45 [No response.]

46 Mr. Boucher?

47 [No response.]

48 Mr. Nadler?

49 Mr. Nadler. Present.

50 The Clerk. Mr. Scott?

51 [No response.]

52 Mr. Watt?

53 [No response.]

54 Ms. Lofgren?

55 [No response.]

56 Ms. Jackson Lee?

57 [No response.]

58 Ms. Waters?

59 [No response.]

60 Mr. Delahunt?

61 [No response.]

62 Mr. Wexler?

63 [No response.]

64 Mr. Cohen?  
65 [No response.]  
66 Mr. Johnson?  
67 [No response.]  
68 Mr. Pierluisi?  
69 [No response.]  
70 Mr. Quigley?  
71 [No response.]  
72 Mr. Gutierrez?  
73 [No response.]  
74 Mr. Sherman?  
75 [No response.]  
76 Mr. Baldwin?  
77 [No response.]  
78 Mr. Gonzalez?  
79 [No response.]  
80 Mr. Weiner?  
81 [No response.]  
82 Mr. Schiff?  
83 [No response.]  
84 Ms. Sanchez?  
85 [No response.]  
86 Ms. Wasserman Schultz?  
87 [No response.]  
88 Mr. Maffei?

89 [No response.]  
90 Mr. Smith?  
91 [No response.]  
92 Mr. Sensenbrenner?  
93 [No response.]  
94 Mr. Coble?  
95 [No response.]  
96 Mr. Gallegly?  
97 [No response.]  
98 Mr. Goodlatte?  
99 [No response.]  
100 Mr. Lungren?  
101 [No response.]  
102 Mr. Issa?  
103 [No response.]  
104 Mr. Forbes?  
105 [No response.]  
106 Mr. King?  
107 [No response.]  
108 Mr. Franks?  
109 [No response.]  
110 Mr. Gohmert?  
111 [No response.]  
112 Mr. Jordan?  
113 [No response.]

114 Mr. Poe?  
115 [No response.]  
116 Mr. Chaffetz?  
117 [No response.]  
118 Mr. Rooney?  
119 [No response.]  
120 Mr. Harper?  
121 [No response.]  
122 Chairman Conyers. Mr. Quigley?  
123 Mr. Quigley. Here.  
124 Chairman Conyers. Ms. Baldwin?  
125 Ms. Baldwin. Here.  
126 Chairman Conyers. Mr. Scott?  
127 Judge Gonzalez?  
128 Ranking Member Smith?  
129 Mr. Harper?  
130 Mr. Schiff?  
131 Ms. Jackson Lee?  
132 Mr. Forbes?  
133 Mr. Franks?  
134 Ms. Chu?  
135 Mr. Coble?  
136 Ms. Wasserman Schultz?  
137 Clerk will report.  
138 The Clerk. Mr. Chairman, including Ms. Chu, we have 16

139 members responding to the quorum call.

140 Chairman Conyers. Before we begin the business at hand,  
141 myself and the committee would like to welcome our newest  
142 member, Dr. Judy Chu, of Monterey Park, California. She was  
143 elected on July 14th, sworn in on July 16th, replacing our  
144 former colleague, Hilda Solis, who has since become the  
145 secretary of labor.

146 She is a Los Angelean and has served at every level of  
147 government—of state government—in her area. Since 2006 she  
148 was on the California State Board of Equalization, where she  
149 was unanimously elected vice chair. And before that she  
150 served three terms as a state assembly member and authored  
151 landmark tax amnesty legislation that brought in nearly \$5  
152 billion in revenue to the state of California without raising  
153 taxes. She is also the chair of the California Asian and  
154 Pacific Islander legislative caucus and of the Select  
155 Committee on Hate Crimes.

156 Before her state assembly career she served on the  
157 Monterey city council, 13 years, and as mayor on three  
158 different occasions. And she was also previously a member of  
159 the Board of the Garvey School District from 1985 to 1988.  
160 She is a doctor of psychology and has been a college  
161 professor for more than 2 decades.

162 Her grandparents were from China; she is the first  
163 Chinese American woman ever elected to the U.S. Congress.

164 And we are happy to assign to her the Immigration  
165 Subcommittee, the Constitution Subcommittee, and the  
166 Commercial and Administrative Law Committee.

167 Will we all welcome our newest member to the Congress-to  
168 the Judiciary Committee?

169 [Applause.]

170 I recognize Ranking Member Lamar Smith.

171 Mr. Smith. Thank you, Mr. Chairman. And I would like  
172 to join you in welcoming Judy Chu to the Judiciary Committee.

173 Judy, it strikes me that you have two advantages over  
174 the rest of us. First of all, your good judgment and common  
175 sense has been untainted by 3 years of law school. The  
176 second is, as the chairman pointed out, you have a Ph.D. in  
177 clinical psychology, and it strikes me that that credential  
178 will be put to good use in your dealing with witnesses at  
179 hearings and in dealing with members of the committee itself.

180 So we appreciate your being here, and welcome to the  
181 committee.

182 Chairman Conyers. Our colleague, Mr. Maffei, is  
183 transferred to the Courts Subcommittee. Pursuant to notice,  
184 I call up H.R. 3596, the Health Insurance Industry Antitrust  
185 Enforcement Act for purposes of markup and ask the clerk to  
186 please report the bill.

187 The Clerk. H.R. 3596, a bill to ensure that health  
188 insurance insurers and medical malpractice insurance insurers

189 cannot engage in price fixing, bid rigging, or market  
190 allocations to the detriment of competition and consumers.

191 [The bill follows:]

192 \*\*\*\*\* INSERT \*\*\*\*\*

193 Chairman Conyers. Without objection, the bill will be  
194 considered as read.

195 On April 4, 1989, in the Judiciary Committee, the then  
196 chairman, Jack Brooks, introduced essentially the same  
197 measure that is before us today, and it has been up and down  
198 the subcommittee, the full committee, but for reasons only  
199 history can record it never was enacted into law. So we come  
200 here today to reconsider the same measure, and some of my  
201 colleagues—the chairman emeritus Lamar, Bob Goodlatte, Coble—  
202 all remember Jack Brooks. They served with and under him.

203 And I telephoned him to let him know that—what we were  
204 doing. Only thing is, he didn't answer the phone, which is  
205 not untypical of the former chairman.

206 But we come here with a wealth of encouragement. I ask  
207 unanimous consent to include the comments of the National  
208 Association of Attorneys General, of the Center for Justice—  
209 Public Citizens Center for Justice and Democracy, the  
210 American Hospital Association, American Association for  
211 Justice, which are all merely communications endorsing our  
212 undertaking of this very important step in moving H.R. 3596  
213 along.

214 There is a lot to be discussed, as we all know that the  
215 reform of health care is now the number one topic in the  
216 Congress and in the country, and this is not unrelated to  
217 that subject. And so I thank my colleagues on the committee

218 for the attention that they have paid to this matter and we  
219 welcome their study, any recommendations that they may have,  
220 and hope that we can have a meaningful role in the important  
221 efforts underway in the House of Representatives.

222 I ask unanimous consent to include the remainder of my  
223 statement in the record, and I turn now to the ranking  
224 member, Lamar Smith, of Texas.

225 [The statement of Chairman Conyers follows:]

226 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

227 Mr. Smith. Thank you, Mr. Chairman.

228 Mr. Chairman, despite your invoking the name of our  
229 former chairman and a Texas colleague of mine, Jack Brooks, I  
230 am afraid I still have to oppose this legislation. The  
231 McCarran-Ferguson Act's federal antitrust exemption allows  
232 small and medium-sized insurers to aggregate information for  
233 underwriting purposes so they can compete effectively against  
234 larger national companies. In other words, McCarran-Ferguson  
235 promotes competition by making small and medium-sized  
236 underwriters viable.

237 McCarran-Ferguson is not intended to reduce competition  
238 through price fixing, bid rigging, or market allocation.  
239 Instead, the act clarifies that insurers are regulated by the  
240 states, which ensure that firms do not engage in these per se  
241 antitrust violations, either through regulation or through  
242 their own laws.

243 Antitrust exemption should be rarely granted or created,  
244 and if they are necessary should be written in as limited a  
245 way as necessary to meet a compelling public policy goal.  
246 That said, when repealing an existing antitrust exemption we  
247 must be very careful of the unintended consequences of our  
248 actions. This is a real concern.

249 For more than 60 years the states have regulated the  
250 business of insurance and built a record that provides  
251 guidance about permissible activity. By inviting federal

252 intervention, this bill might create a dual regulatory system  
253 that only confuses the health insurance and medical  
254 malpractice industry.

255       It is doubtful that this legislation will do anything  
256 beneficial for the customer, and I certainly do not believe  
257 one hearing on this subject and no subcommittee markup is an  
258 adequate basis on which to make judgments about the effects  
259 of this bill on such an important topic. It is possible that  
260 H.R. 3596 will be folded into a larger health care bill. To  
261 address that subject and one under our jurisdiction, it is  
262 better that we focus our attention on frivolous lawsuits  
263 against medical personnel which create real problems and real  
264 cost.

265       According to a study by the Harvard School of Public  
266 Health, 40 percent of medical malpractice suits filed in the  
267 United States are "without merit." So every doctor must  
268 purchase malpractice insurance at great expense to protect  
269 against frivolous lawsuits.

270       A Department of Health and Human Services study found  
271 that unlimited excessive damages add \$70 billion to \$126  
272 billion annually to health care costs. Doctors are so  
273 concerned about frivolous lawsuits that they order  
274 unnecessary tests and procedures that do not benefit the  
275 patient.

276       HHS estimates the national cost of defensive medicine is

277 now more than \$60 billion. All these costs are then passed  
278 on to patients in the price of health care. That is why some  
279 states, including my home state of Texas, enacted tort reform  
280 to limit the amount of excessive damages awarded in frivolous  
281 suits.

282       The result: Insurance premiums have fallen 30 to 40  
283 percent and the availability of medical care has expanded.  
284 That means Texans and others could pay less to have more  
285 options and better health care.

286       Mr. Chairman, in closing, I believe we are rushing in  
287 consideration of H.R. 3596. I urge members to oppose the  
288 bill.

289       And I will yield back the balance of my time. Mr.  
290 Chairman?

291       Chairman Conyers. Thank you very much. The chair  
292 recognizes one of our members who has worked extensively on  
293 the larger subject, Anthony Weiner, of New York, briefly.

294       Mr. Weiner. I move to strike the last word. I  
295 appreciate being recognized.

296       I think I have identified a group of about 100 or so  
297 members of this Congress who should enthusiastically embrace  
298 this legislation, and that is all of those members of  
299 Congress who have been arguing on television and town hall  
300 meetings that they want to allow insurance companies to be  
301 able to cross over state lines to be able to offer products.

302 Been hearing it a lot. Well, this is the logical step to do  
303 that, the argument being that if you want them to be  
304 regulated like every other company, not state by state, which  
305 is what happens when you suspend the antitrust exemption, you  
306 have to regulate them state by state, then this is your  
307 opportunity.

308       What the health insurance industry—and they are not  
309 venal people; they are doing exactly what they are supposed  
310 to be doing. They are trying to maximize the amount of money  
311 they take in, minimize the amount of money that they spend  
312 out. That is the way businesses operate.

313       Unfortunately, the way that they are choosing to do it  
314 is simply not to compete on price, and if you think that  
315 there isn't some level of cooperation, to put it mildly,  
316 going on, try this exercise: Try asking, say, a 57-year-old  
317 man in your district to go knock on the doors of the various  
318 insurance companies and ask them what their rate would be to  
319 provide them with health insurance. And you will see what my  
320 father found when he retired before he has old enough to be  
321 eligible for Medicare: a surprising alignment of the—nearly  
322 the exact same price for the services.

323       Look, I think the insurance industry has to decide which  
324 of the two sides of this discussion they want to be on. Do  
325 they say, "We want to operate like a national company like  
326 anyone else who can offer policies in Maine, and policies in

327 New Jersey, and policies in Montana? Or do we want to  
328 maintain our antitrust exemption—this special status we have—  
329 and be regulated state by state?"

330 But you can't have both. You can't say, "We want to be  
331 like every other industry except we want this special  
332 protection that is really a quirk in the law."

333 And I will say to my good friend from Texas, the ranking  
334 member, you can make the argument that companies would be  
335 better off and more competitive joining together in just  
336 about any business. You can get five bodegas in New York to  
337 say, "I would have a better job competing against the big  
338 supermarket on the corner if we were able to join together  
339 and conspire about prices."

340 Of course. That is the very definition of why you have  
341 antitrust laws. It is the very definition about why you have  
342 these protections.

343 Any industry can step up and say, "Hey guys, we would  
344 really be much stronger if you didn't regulate us and didn't  
345 apply antitrust laws to us." Duh. Yes, of course you would  
346 be. You would be a pretty powerful company, and you would be  
347 a pretty powerful industry. And you would be an industry  
348 that takes about 30 percent in profits and overhead, skims  
349 off the top, for every dollar of health care we spend in this  
350 country.

351 Look, there is a reason we are here. The health

352 insurance industry has benefitted from the inefficiencies in  
353 the marketplace. Some of them have been by congressional  
354 inaction, and some of them would be called quirks, like  
355 having antitrust exemptions when they are no rational reasons  
356 to have it. And we are going to eliminate that quirk today.

357 And I thank the chairman.

358 Chairman Conyers. You are very welcome.

359 The chair recognizes the distinguished gentleman from  
360 Virginia, Bob Goodlatte.

361 Mr. Goodlatte. Well, thank you, Mr. Chairman. And I  
362 thank that chairman for bringing up the health care reform  
363 issue in this committee. I join with the ranking member in  
364 wondering why it is limited to this narrow area, and in fact,  
365 if this bill would be so narrow in its scope.

366 Certainly this committee has jurisdiction over medical  
367 liability reform, and it is a real curiosity why, when the  
368 health care industry is nearly unanimous in saying that there  
369 are tens of billions of dollars a year spent on defensive  
370 medicine, ordering up unnecessary tests and procedures that  
371 cost those who purchase health insurance substantial amounts  
372 of money and could have a very direct effect on lowering that  
373 cost, and why that has not been addressed in this committee,  
374 notwithstanding the fact that the president of the United  
375 States has indicated his support for tort reform in this  
376 area. So it is surprising to me that this would be the only

377 area that we would bring up and address.

378       But I suspect it has to do with what was reported on  
379 National Public Radio this morning, that this bill is being  
380 brought up in an attempt to weaken the insurance industry's  
381 opposition to massive, massive amounts of government  
382 regulation and interference in the marketplace—not creating  
383 more competition, but creating more government control over  
384 the insurance industry, and that this is designed to try to  
385 weaken their opposition to the health care bill since they  
386 are now speaking out more forcefully about that.

387       Furthermore, I think it is totally ironic that while I  
388 am sure that most, but I know not all, the members of this  
389 committee on the other side of the aisle support the so-  
390 called government insurance option, which is the furthest  
391 thing from creating real competition because it entails two  
392 things: It entails giving the government, which is in itself  
393 a monopoly of power, the ability not only to compete with  
394 private insurance companies but also enhances their ability  
395 to regulate those insurance companies at the federal level.

396       So to say that this measure today is going to increase  
397 competition in the insurance industry, when you couple it  
398 with the entire picture of what is going on in this Congress  
399 with regard to health reform, is, in my opinion, a gross  
400 misrepresentation of what is really going on here and why we  
401 should be approaching this with great concern. There are

402 elements of the McCarran-Ferguson Act that, with careful  
403 examination and proper hearings, we could indeed find good  
404 reform, I think, that could take place there.

405       But we certainly wouldn't want to take away the ability  
406 of, as the ranking member mentioned, small insurance  
407 companies to be able to gather information about accidents  
408 and rates and costs that are necessary for them to be able to  
409 compete in the marketplace. And that is what this does with  
410 the exception—and I would note, with the exception—it  
411 wouldn't stop that information from being gathered by the  
412 states nor would it stop the states from regulating the  
413 establishment of price setting by the insurance industry.

414       So to claim that this is going to open up the  
415 marketplace and create competition, I think is definitely not  
416 the case and I would urge members to approach this with  
417 caution because it is going to have a lot of ramifications  
418 that, because of the fact that no hearings have been held and  
419 because of the fact that so little time has been spent on  
420 this, we really don't know what the unintended consequences  
421 of this measure are.

422       Thank you, Mr. Chairman.

423       Chairman Conyers. Thank you, Mr. Goodlatte.

424       I recognize the chairman of the Constitution  
425 Subcommittee, Jerrold Nadler, and ask him to yield to me.

426       Mr. Nadler. Yield to you?

427 I yield to the chairman.

428 Chairman Conyers. I would like to help our colleague  
429 from Virginia feel better about some of the substance of this  
430 bill. First of all, since 1984 there have been more than 12  
431 hearings on this subject in the Judiciary Committee. Well,  
432 some of you weren't here then, but the person that made this  
433 statement was here.

434 Number two, the public option is not to be found  
435 anywhere on this bill—in this bill—so everybody opposed to  
436 the public option can rest more peacefully in their bed  
437 tonight because—

438 Mr. Goodlatte. Mr. Chairman?

439 Chairman Conyers. —the public option isn't on there.

440 Mr. Goodlatte. Mr. Chairman, would you yield on that  
441 point?

442 Chairman Conyers. He has the time.

443 But the third thing that I would like you to note, that  
444 medical malpractice is involved in this measure. We are  
445 taking action on it, and it is on the second page of the  
446 bill. I hope that the gentleman will be more relieved to  
447 find that out.

448 And I thank the gentleman for yielding.

449 Mr. Nadler. I thank the gentleman. Reclaiming my time,  
450 I just want to say that I agree with Mr. Goodlatte. I wish  
451 this bill were different. I wish it eliminated the antitrust

452 exemption for insurance companies, period, instead of  
453 limiting itself to the narrow scope that it has.

454         But we must be satisfied with what we can do, and if  
455 because of the heightened sensitivity toward health care that  
456 we have now—if, because we realize that contrary to the  
457 absurd implications that we heard a few minutes ago, that we  
458 have to allow the antitrust exemption for insurance companies  
459 so the little companies can get together—94 percent of  
460 Americans live in areas where there is only one or two health  
461 insurance companies giving policies. This is a very  
462 monopolized and oligopolized industry. They are gouging  
463 consumers; they are gouging the doctors.

464         I don't think the answer to the malpractice insurance  
465 premium crisis is to say to people who are injured, "Can't  
466 sue." The answer is to crack down on the insurance—one of  
467 the answers; there are several others—is to crack down on the  
468 insurance companies that are gouging the doctors by—as they  
469 are gouging everyone else—by raising the rates unnecessarily,  
470 by conspiring to raise the rates against the antitrust—  
471 because of the antitrust exemption. We are here removing and  
472 eliminating the antitrust exemption.

473         Let me say one other thing: I know we are not debating  
474 in this bill the public option, but Mr. Goodlatte talked  
475 about it. The fact is, the public option will stand on its  
476 own. It will have to be supported only by premiums. It is

477 not the power of the government coming in to compete with the  
478 insurance companies except in the sense of setting up an  
479 alternative that won't seek actively, as their first  
480 principle, to gouge the consumers. That is unfair  
481 competition in our system and we must have more of it.

482       So I support the bill, and I yield back.

483       Chairman Conyers. Thank you.

484       I would like now to recognize someone else that was here  
485 in 1984, and that is Chairman Howard Coble.

486       Mr. Coble. Mr. Chairman, thank you, but I came in early  
487 1985, so you are making me about 4 months older than I am,  
488 and I feel sensitive about that.

489       Chairman Conyers. I beg the gentleman's pardon.

490       Mr. Coble. Thank you, Mr. Chairman. I will move to  
491 strike the last word. I won't use the 5 minutes, Mr.  
492 Chairman, but in the language of the bill it says it is the  
493 purpose of this act to ensure that health insurance carriers  
494 and malpractice insurance issuers cannot engage in price  
495 fixing, bid rigging, or market allocation to the detriment of  
496 competition and consumers.

497       Now, I may be missing something, colleagues, but I am  
498 not convinced that they engage in price fixing and bid  
499 rigging now. Now, I know they exchange information with one  
500 another, which they can do because of the exemption.

501       But I don't know, Mr. Chairman and colleagues, that the

502 mere sharing of information constitutes or comes to the level  
503 of price rigging—bid rigging and price fixing or market  
504 allocation to the detriment of—and if I am correct about that  
505 I think this portion of the bill may well be redundant in  
506 that the law addresses it now.

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

508 Mr. Goodlatte. Would you yield?

509 Chairman Conyers. Thank the gentleman—

510 Mr. Coble. I yield to the gentleman from Virginia.

511 Mr. Goodlatte. I thank the gentleman for yielding, and  
512 I would just like to say to both gentlemen from New York that  
513 I am—as they leave the room—I am encouraged by their  
514 statements about wanting to open up competition more, and I  
515 would hope that their comments would indicate that they would  
516 support allowing the sale of health insurance policies across  
517 state lines. And if, indeed, that is their claim, as Mr.  
518 Weiner suggested, this legislation was the first step to  
519 doing so, why don't we join together here today and take the  
520 next step and actually pass legislation that would remove  
521 those barriers to that kind of competition? This committee  
522 probably has some jurisdiction over that.

523 Mr. Coble. I will reclaim and yield back, Mr. Chairman.

524 Chairman Conyers. Thank you.

525 I would like now to recognize the gentleman from  
526 Georgia, Subcommittee Chairman Hank Johnson.

527 Mr. Johnson. Thank you, Mr. Chairman, and I move to  
528 strike the last word.

529 Thank you for bringing H.R. 3596, the Health Industry  
530 Antitrust Enforcement Act of 2009, before this full committee  
531 to be marked up. And I am proud to be an original cosponsor  
532 of this legislation.

533 This bill is an extremely important piece of  
534 legislation. As chairman of the Courts and Competition  
535 Policy Subcommittee, I believe that it is important to  
536 protect the fundamentals of antitrust laws, and pursuant to  
537 that philosophy, a hearing was held in my subcommittee back  
538 on October the 8th of 2009—this year. And unfortunately,  
539 however, the insurance industry representatives failed and  
540 refused to attend.

541 There is no reason that the health care industry should  
542 be exempt from antitrust laws that almost every other  
543 industry is subject to. Health care costs are extremely  
544 high, and they have increased a total of 87 percent in the  
545 last 6 years alone. Now, that is health insurance premiums.  
546 With respect to medical malpractice premiums, I suspect that  
547 they have gone up even more.

548 And this is one of the setups—this tort reform issue is  
549 a setup to take away people's rights to be able to address  
550 medical negligence that occurs in the courthouse. And, you  
551 know, this has been something that has been brewing for quite

552 some time, particularly on the state level, and now the feds  
553 want to overrule any states that do not impose limits on the  
554 amount of damages or the immunity to certain parts of the  
555 health care industry, like emergency room personnel—

556 Chairman Conyers. I thank the gentleman.

557 Mr. Johnson. —but they want to impose that on states.  
558 But passage of this bill will prevent the health and medical  
559 malpractice insurers from using the antitrust—as a shield for  
560 price fixing, bid rigging, or market allocation, and with  
561 this bill we are taking steps to help consumers.

562 Thank you, and—

563 Chairman Conyers. I thank the gentleman for his  
564 contribution.

565 Before I recognize the gentlewoman from California for  
566 an amendment, I recognize Dr. Chu.

567 Ms. Chu. Well, first I would like to thank Chairman  
568 Conyers for his warm welcome this morning.

569 Thank you so very much.

570 I am excited to be the newest member of the Judiciary  
571 Committee and I look forward to working with all of you on  
572 important issues that improve the lives of Americans.

573 I think it is significant that my first vote in this  
574 committee will be on a bill that is as important and life-  
575 changing as this one. Like many of you, health care is one  
576 of my top priorities in Congress, and I believe the only way

577 we can make a system with private insurance work in America  
578 is if it is based on aggressive competition. That is why I  
579 do support the public option, because I do believe that it  
580 provides incentives for competitive pricing in the exchange,  
581 and that is why I support this legislation as well.

582 I think my constituents would be shocked to learn that  
583 the antitrust exemption is even on the books. I know I was.  
584 Price fixing, bid rigging, and market allocation go against  
585 the core of what it means to do business in American.

586 We cannot implement true health care reform if we don't  
587 ensure a fair playing field for patients, doctors, and  
588 insurers. Health care is expensive and out of the reach for  
589 many, even at sticker price, and for many it is a matter of  
590 life and death.

591 This bill is, at its core, about fairness, and so I  
592 strongly support this bill and I hope it will pass today and  
593 be included in the final health care reform package.

594 Chairman Conyers. Thank you very much.

595 Well, I recognize Dan Lungren for an amendment and note  
596 that he was here in 1984.

597 Mr. Lungren. Mr. Chairman, I have an amendment at the  
598 desk.

599 Chairman Conyers. Clerk will report the amendment.

600 The Clerk. Amendment to H.R. 3596, offered by Mr.  
601 Daniel E. Lungren, of California. At the end, add the

602 following-

603 [The amendment by Mr. Lungren follows:]

604 \*\*\*\*\* INSERT \*\*\*\*\*

605 Mr. Lungren. We can have the amendment considered as  
606 read.

607 Chairman Conyers. Without objection, so ordered. The  
608 gentleman is recognized in support of his amendment.

609 Mr. Lungren. Thank you, Mr. Chairman.

610 Before I mention the context—or the content of my  
611 amendment, I would just like to say, as someone who practiced  
612 in the field of medical malpractice in the courts of  
613 California and also the son of a doctor, I am surprised to  
614 hear some of the comments from our friends from New York who  
615 suggest that if you talked with most doctors they would  
616 immediately say, "We don't want medical malpractice reform in  
617 terms of reforming the tort system. Rather, we want you to  
618 get rid of the antitrust exemption under McCarran-Ferguson."

619 I have talked with all kinds of doctors over the last 40  
620 years. I have never heard a single one of them say that.

621 Also, the complaints we—

622 Mr. Nadler. Point of personal privilege.

623 Mr. Lungren. Well—but the point is—the point is that we  
624 have self-insured doctors, we have associations where doctors  
625 got together to provide their own insurance companies, and  
626 they found the problem was not with their competitor  
627 insurance companies; the problem was with the tort system.

628 And we have made some changes in California which are of  
629 assistance, but talk about a red herring in this debate, to

630 say that all we really are addressing—the key question of  
631 medical malpractice by eliminating the antitrust exemption  
632 for insurance carriers, including those that provide medical  
633 malpractice insurance—frankly, with all due respect, Mr.  
634 Chairman and others, is absurd. It is absolutely absurd. I  
635 think you could go through most of the testimony and most of  
636 the comments by physicians across the country and have some  
637 difficulty in finding that.

638         Now, with respect to my amendment, the chairman said, in  
639 talking about this bill, that this is a tribute to Jack  
640 Brooks, and I did serve with Jack Brooks. But unfortunately,  
641 the bill that is before us leaves out a very important aspect  
642 of the legislation that Jack Brooks spoke about. The  
643 language I have in my amendment may look familiar to some of  
644 you who were around in the 101st Congress because it is  
645 exactly the same language in the legislation introduced by  
646 the former chairman of the committee, Jack Brooks, except for  
647 the transition language, which is not really relevant to this  
648 bill.

649         I would add that this language was adopted by this  
650 committee on October 27, 1990, as H.R. 1663. Similar  
651 language passed this committee in the 102nd and 103rd  
652 Congresses. And I offer this amendment as someone who is  
653 categorically opposed to price fixing, bid rigging, and  
654 market allocations, which would operate to the detriment of

655 consumers.

656       My concern, however, as was Jack Brooks' concern,  
657 relates to a desire to avoid the law of unintended  
658 consequences. Some have observed that insurance is different  
659 from other industries because when it is sold the insurer  
660 does not know what the cost of the policy will be. In  
661 addition, insurance insolvency—or insurer insolvencies—can  
662 pose significant social costs.

663       In this regard, the GAO, the Government Accounting  
664 Office—or, Accountability Office—in its July 28, 2005 report  
665 entitled, "Ultimate Effects of McCarran-Ferguson Federal  
666 Antitrust Exemption on Insurer Activity Are Unclear," raises  
667 a concern which should warrant our attention, I would hope.  
668 Specifically, the report contained this language: Some state  
669 regulators told us that lack of certainty about future costs  
670 leads some insurers to underestimate their future costs and  
671 significantly underprice their policies, potentially leading  
672 to costly insolvencies. They said that joint rate-making  
673 provides more information and greater certainty to insurers.

674       I would suggest the last thing we would want to do with  
675 this bill is to in any way jeopardize the solvency of smaller  
676 insurance companies who depend on contractual arrangements  
677 concerning the aggregation of historical loss data which  
678 makes it possible for smaller companies to price their  
679 policies in a manner which reflects likely costs. My

680 amendment would allow agreements concerning the compilation  
681 of this historical loss as long as it would not constitute a  
682 restraint of trade.

683         Now, we began this markup with considerable deference to  
684 the past track record of Chairman Brooks, and so I was  
685 surprised when I looked at the bill presented to us that it  
686 did not contain this. This really goes to the crux of the  
687 matter, it seems to me.

688         No one on this panel, Democrat or Republican, supports  
689 the idea of bid rigging, or price fixing, or market  
690 allocation in the antitrust context. At the same time, there  
691 seems to be some recognition that the states can gather this  
692 information, as if the states can do it but we are not going  
693 to allow these organizations, these companies to do it in a  
694 way that would give them the kind of data such that they  
695 could make determinations as to what their rates ought to be.

696         For those who have ever been involved in representing  
697 the pools that have been established in states to take care  
698 of insolvent insurance companies, you recognize that that is  
699 not the best way to do things. You would hope that that is  
700 the very last resort. Insolvent insurance companies do  
701 nothing to improve the situation of competition with respect  
702 to the consumer.

703         And so for us to pass legislation which denies the  
704 historic record showing that this kind of information

705 compilation serves a good social purpose, one recognized by  
706 the former chairman of the committee, Mr. Brooks, I think  
707 would be wrong.

708       So I offer this amendment in good faith to hope that  
709 this would satisfy the concern that some have that our bill  
710 would unnecessarily interfere with a process that has worked  
711 well and really worked not only uncertainty but certain  
712 financial difficulty for smaller insurance companies.

713       And so I would hope that I would get the support of both  
714 sides of this rostrum on this particular amendment. And with  
715 that, I would yield back the balance of my time.

716       Chairman Conyers. I want to thank the gentleman for his  
717 gentleman—I strike the last word—because I think this is a  
718 helpful clarification, and his interests going back to the  
719 original discussions and the discussion today are deeply  
720 appreciated, because it does assure insurers—smaller ones,  
721 particularly—regarding the collection and use of historical  
722 claims data that is important to some sectors of the  
723 insurance industry, and it does not raise competitive  
724 concerns. The committee has provided this assurance in the  
725 past, and there is no reason that I can think of that we  
726 shouldn't also do so here. And so I am pleased to accept the  
727 amendment.

728       The question occurs on the amendment. All in favor, say  
729 "aye."

730 [A chorus of ayes.]

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

732 [A chorus of noes.]

733 Chairman Conyers. The ayes have it, and so ordered.

734 Did Mr. Pierluisi want to strike the last word? Or can  
735 we move—

736 Mr. Pierluisi. Yes. I wanted to strike the last word—  
737 but I guess we just approved the amendment, so it has become—  
738 what I wanted to say, though, is that I wonder why you use  
739 the word "conspiracy" as opposed to "joint venture" or  
740 something along the same lines. I believe the word  
741 "conspiracy," in and of itself, suggests illegal conduct, and  
742 I am not sure you need that word there. But again, I support  
743 the amendment and the purpose of the amendment; it was just a  
744 matter of the word. I am not sure you are talking about  
745 really a conspiracy. You are really talking about a joint  
746 venture or something along those lines.

747 Mr. Lungren. Would the gentleman yield?

748 Mr. Pierluisi. Sure I will.

749 Mr. Lungren. I would say to the gentleman that if it  
750 were illegal to conspire, the health care bill that is  
751 working its way through the Congress now would be toast.

752 [Laughter.]

753 Chairman Conyers. A reporting quorum being present, the  
754 question is on reporting the bill favorably to the House.

755 Those in favor, say "aye."

756 [A chorus of ayes.]

757 Chairman Conyers. Those opposed, say "no."

758 [A chorus of noes.]

759 Chairman Conyers. Ayes have it, and the bill is ordered  
760 reported favorably.

761 Mr. Scott. Chairman?

762 Chairman Conyers. Mr. Scott?

763 Mr. Scott. Could we get a recorded vote, please?

764 Chairman Conyers. A recorded vote is ordered. The  
765 clerk will call the roll.

766 The Clerk. Mr. Conyers?

767 Chairman Conyers. Aye.

768 The Clerk. Mr. Conyers votes aye.

769 Mr. Berman?

770 [No response.]

771 Mr. Boucher?

772 [No response.]

773 Mr. Nadler?

774 [No response.]

775 Mr. Scott?

776 Mr. Scott. Aye.

777 The Clerk. Mr. Scott votes aye.

778 Mr. Watt?

779 [No response.]

780 Ms. Lofgren?  
781 [No response.]  
782 Ms. Jackson Lee?  
783 [No response.]  
784 Ms. Waters?  
785 [No response.]  
786 Mr. Delahunt?  
787 [No response.]  
788 Mr. Wexler?  
789 [No response.]  
790 Mr. Cohen?  
791 Mr. Cohen. Aye.  
792 The Clerk. Mr. Cohen votes aye.  
793 Mr. Johnson?  
794 Mr. Johnson. Aye.  
795 The Clerk. Mr. Johnson votes aye.  
796 Mr. Pierluisi?  
797 Mr. Pierluisi. Aye.  
798 The Clerk. Mr. Pierluisi votes aye.  
799 Mr. Quigley?  
800 Mr. Quigley. Aye.  
801 The Clerk. Mr. Quigley votes aye.  
802 Ms. Chu?  
803 Ms. Chu. Aye.  
804 The Clerk. Ms. Chu votes aye.

805 Mr. Gutierrez?  
806 [No response.]  
807 Ms. Baldwin?  
808 [No reponse.]  
809 Mr. Gonzalez?  
810 [No response.]  
811 Mr. Weiner?  
812 Mr. Weiner. Aye.  
813 The Clerk. Mr. Weiner votes aye.  
814 Mr. Schiff?  
815 Mr. Schiff. Aye.  
816 The Clerk. Mr. Schiff votes aye.  
817 Ms. Sanchez?  
818 Ms. Sanchez. Aye.  
819 The Clerk. Ms. Sanchez votes aye.  
820 Ms. Wasserman Schultz?  
821 Ms. Wasserman Schultz. Aye.  
822 The Clerk. Ms. Wasserman Schultz votes aye.  
823 Mr. Maffei?  
824 Mr. Maffei. Aye.  
825 The Clerk. Mr. Maffei votes aye.  
826 Mr. Smith?  
827 Mr. Smith. No.  
828 The Clerk. Mr. Smith votes no.  
829 Mr. Goodlatte?

830 Mr. Goodlatte. No.

831 The Clerk. Mr. Goodlatte votes no.

832 Mr. Sensenbrenner?

833 [No response.]

834 Mr. Coble?

835 Mr. Coble. No.

836 The Clerk. Mr. Coble votes no.

837 Mr. Gallegly?

838 [No response.]

839 Mr. Lungren?

840 Mr. Lungren. Aye.

841 The Clerk. Mr. Lungren votes aye.

842 Mr. Issa?

843 [No response.]

844 Mr. Forbes?

845 Mr. Forbes. No.

846 The Clerk. Mr. Forbes votes no.

847 Mr. King?

848 Mr. King. No.

849 The Clerk. Mr. King votes no.

850 Mr. Franks?

851 [No response.]

852 Mr. Gohmert?

853 Mr. Gohmert. Aye.

854 The Clerk. Mr. Gohmert votes aye.

855 Mr. Jordan?  
856 Mr. Jordan. No.  
857 The Clerk. Mr. Jordan votes no.  
858 Mr. Poe?  
859 [No response.]  
860 Mr. Chaffetz?  
861 Mr. Chaffetz. No.  
862 The Clerk. Mr. Chaffetz votes no.  
863 Mr. Rooney?  
864 Mr. Rooney. Aye.  
865 The Clerk. Mr. Rooney votes aye.  
866 Mr. Harper?  
867 Mr. Harper. No.  
868 The Clerk. Mr. Harper votes no.  
869 Chairman Conyers. Mr. Watt?  
870 Mr. Watt. Aye.  
871 The Clerk. Mr. Watt votes aye.  
872 Chairman Conyers. Thank you.  
873 Ms. Waters?  
874 Ms. Waters. Aye.  
875 The Clerk. Ms. Waters votes aye.  
876 Chairman Conyers. Mr. Nadler?  
877 Mr. Nadler. Aye.  
878 The Clerk. Mr. Nadler votes aye.  
879 Chairman Conyers. Ms. Baldwin?

880 Ms. Baldwin. Aye.

881 The Clerk. Ms. Baldwin votes aye.

882 Chairman Conyers. Mr. Wexler?

883 Mr. Wexler. Aye.

884 The Clerk. Mr. Wexler votes aye.

885 Chairman Conyers. Anyone else wish to vote? Clerk will

886 report. Wait a minute.

887 Oh, Mr. Franks? Excuse me.

888 Mr. Franks. No.

889 The Clerk. Mr. Franks votes no.

890 Chairman Conyers. Clerk will report.

891 The Clerk. Mr. Chairman, 20 members voted aye, nine

892 members votes nay.

893 Chairman Conyers. The bill has passed, without

894 objection.

895 Without objection, the staff is authorized to make

896 technical and conforming changes. Members will have 2 days

897 to submit views.

898 With the support of the committee we are going to go to

899 the measure that was left undisposed at the last hearing,

900 H.R. 42, at which time the King amendment was pending. I

901 would like now to recognize Steve King in support of his

902 amendment.

903 [The amendment by Mr. King follows:]

904 \*\*\*\*\* INSERT \*\*\*\*\*

905 Mr. King. Thank you, Mr. Chairman. And this, by my  
906 recollection, is a refresher discussion, so I will compress  
907 our discussion on this amendment because I do believe we  
908 completed the debate on the amendment at the time that the  
909 committee was recessed.

910 But the King amendment that is pending at this point is  
911 the amendment to H.R. 42, the Commission on Wartime  
912 Relocation and Internment of Latin Americans of Japanese  
913 Descent. It sets up a commission to study the transfer of  
914 native Japanese who were brought to the United States, and  
915 then at least the history says that they were traded off for  
916 Americans in exchange for American prisoners of war. That  
917 was the intent, at least.

918 We had discussions, and we had a hearing, we had  
919 witnesses, but it has been a consistent position on the part  
920 of both sides of this bill that there not be reparations  
921 included even in the consideration of a commission that would  
922 be set up by this bill. And yet, one of the witnesses had  
923 made a number of writings and remarks in support of  
924 reparations.

925 Now, I am taking this position that the people who were  
926 moved in that process, it is really more their descendents  
927 than it is they, and the United States cannot be assigning a  
928 guilt to the descendents of people who made a judgment at a  
929 time when we were in a global war. And so if it is the

930 intent, as the proponents of the bill have consistently  
931 stated, that reparations not be included, my amendment just  
932 simply says so, that they will not be considered if there is  
933 a commission that is formed and this bill should pass.

934       That is the substance of my amendment. It says, if you  
935 are serious about this, if it wasn't just rhetoric—and by the  
936 way, I do recall discussion in the last time that we  
937 discussed this amendment that it was the intent of Japanese  
938 internment to not include reparations. That was the way this  
939 whole scenario started, with Japanese internment. But we  
940 know that the American taxpayers paid reparations, and I want  
941 to be confident that we don't make the same mistake twice if  
942 we go down this path and we simply just put in the bill,  
943 "Reparations will not be considered."

944       And I think that is consistent with at least the  
945 philosophy of everybody on this committee, as I have listened  
946 to them speak, and I would urge the adoption of this  
947 amendment. And I would yield back the balance of my time.

948       Chairman Conyers. I thank the gentleman.

949       Mr. Wexler?

950       Mr. Wexler. Thank you, Mr. Chairman.

951       I would simply say that the sponsor of the bill and all  
952 those that have argued for the bill have made their intention  
953 very clear in terms of the reparation issue, and Mr. King  
954 himself, in fairness, has said that. The proponents of the

955 bill would simply ask that the bill itself not limit the  
956 commission's ability to make recommendations that it deems  
957 appropriate.

958       Nothing could ever be done without Congress' approval,  
959 so that will be up to future Congresses regardless of what is  
960 in the bill, and therefore the King amendment is just simply  
961 not necessary. The proponents have said what it is they are  
962 seeking and they are not seeking reparations, and that is  
963 where we would wish it should just stand.

964       Chairman Conyers. I thank the gentleman.

965       All in favor of the King amendment, indicate by saying  
966 "aye."

967       [A chorus of ayes.]

968       Chairman Conyers. All opposed, indicate by saying "no."

969       [A chorus of noes.]

970       Chairman Conyers. The noes have it. The King amendment  
971 failed, and King is recognized for his second amendment.

972       Mr. King. Mr. Chairman, I would ask a recorded vote.

973       Chairman Conyers. Recorded vote is called for.

974       The Clerk. Mr. Conyers?

975       Chairman Conyers. No.

976       The Clerk. Mr. Conyers votes no.

977       Mr. Berman?

978       [No response.]

979       Mr. Boucher?

980 [No response.]  
981 Mr. Nadler?  
982 [No response.]  
983 Mr. Scott?  
984 Mr. Scott. No.  
985 The Clerk. Mr. Scott votes no.  
986 Mr. Watt?  
987 [No response.]  
988 Ms. Lofgren?  
989 [No response.]  
990 Ms. Jackson Lee?  
991 [No response.]  
992 Ms. Waters?  
993 [No response.]  
994 Mr. Delahunt?  
995 [No response.]  
996 Mr. Wexler?  
997 Mr. Wexler. No.  
998 The Clerk. Mr. Wexler votes no.  
999 Mr. Cohen?  
1000 Mr. Cohen. No.  
1001 The Clerk. Mr. Cohen votes no.  
1002 Mr. Johnson?  
1003 Mr. Johnson. No.  
1004 The Clerk. Mr. Johnson votes no.

1005 Mr. Pierluisi?  
1006 Mr. Pierluisi. No.  
1007 The Clerk. Mr. Pierluisi votes no.  
1008 Mr. Quigley?  
1009 Mr. Quigley. No.  
1010 The Clerk. Mr. Quigley votes no.  
1011 Ms. Chu?  
1012 Ms. Chu. No.  
1013 The Clerk. Ms. Chu votes no.  
1014 Mr. Gutierrez?  
1015 [No response.]  
1016 Ms. Baldwin?  
1017 [No response.]  
1018 Mr. Gonzalez?  
1019 [No response.]  
1020 Mr. Weiner?  
1021 Mr. Weiner. No.  
1022 The Clerk. Mr. Weiner votes no.  
1023 Mr. Schiff?  
1024 Mr. Schiff. No.  
1025 The Clerk. Mr. Schiff votes no.  
1026 Ms. Sanchez?  
1027 Ms. Sanchez. No.  
1028 The Clerk. Ms. Sanchez votes no.  
1029 Ms. Wasserman Schultz?

1030 Ms. Wasserman Schultz. No.

1031 The Clerk. Ms. Wasserman Schultz votes no.

1032 Mr. Maffei?

1033 Mr. Maffei. No.

1034 The Clerk. Mr. Maffei votes no.

1035 Mr. Smith?

1036 Mr. Smith. Aye.

1037 The Clerk. Mr. Smith votes aye.

1038 Mr. Goodlatte?

1039 Mr. Goodlatte. Aye.

1040 The Clerk. Mr. Goodlatte votes aye.

1041 Mr. Sensenbrenner?

1042 [No response.]

1043 Mr. Coble?

1044 [No response.]

1045 Mr. Gallegly?

1046 [No response.]

1047 Mr. Lungren?

1048 Mr. Lungren. Aye.

1049 The Clerk. Mr. Lungren votes aye.

1050 Mr. Issa?

1051 [No response.]

1052 Mr. Forbes?

1053 Mr. Forbes. Aye.

1054 The Clerk. Mr. Forbes votes aye.

1055 Mr. King?

1056 Mr. King. Aye.

1057 The Clerk. Mr. King votes aye.

1058 Mr. Franks?

1059 [No response.]

1060 Mr. Gohmert?

1061 Mr. Gohmert. Aye.

1062 The Clerk. Mr. Gohmert votes aye.

1063 Mr. Jordan?

1064 Mr. Jordan. Yes.

1065 The Clerk. Mr. Jordan votes yes.

1066 Mr. Poe?

1067 [No response.]

1068 Mr. Chaffetz?

1069 Mr. Chaffetz. Aye.

1070 The Clerk. Mr. Chaffetz votes aye.

1071 Mr. Rooney?

1072 Mr. Rooney. Aye.

1073 The Clerk. Mr. Rooney votes aye.

1074 Mr. Harper?

1075 Mr. Harper. Aye.

1076 The Clerk. Mr. Harper votes aye.

1077 Chairman Conyers. Mr. Coble?

1078 The Clerk. Mr. Coble is not recorded.

1079 Mr. Coble. Aye.

1080 The Clerk. Mr. Coble votes aye.

1081 Chairman Conyers. Mr. Issa?

1082 Mr. Issa. Aye.

1083 The Clerk. Mr. Issa votes aye.

1084 Chairman Conyers. Ms. Baldwin?

1085 Ms. Baldwin. No.

1086 The Clerk. Ms. Baldwin votes no.

1087 Chairman Conyers. Mr. Nadler?

1088 Mr. Nadler. No.

1089 The Clerk. Mr. Nadler votes no.

1090 Chairman Conyers. Ms. Waters?

1091 Ms. Waters. No.

1092 The Clerk. Ms. Waters votes no.

1093 Chairman Conyers. The clerk will report.

1094 Mr. Franks?

1095 Mr. Franks. Yes.

1096 Chairman Conyers. Mr. Poe?

1097 The Clerk. Mr. Franks—

1098 Mr. Poe. Yes.

1099 The Clerk. Mr. Poe votes yes.

1100 Did you recognize Mr. Franks?

1101 Chairman Conyers. Yes.

1102 The Clerk. Mr. Franks votes yes.

1103 Chairman Conyers. Clerk will report.

1104 The Clerk. Mr. Chairman, 14 members voted aye, 16

1105 members voted nay.

1106 Chairman Conyers. The amendment is not successful.

1107 Mr. King is recognized.

1108 Mr. King. Thank you, Mr. Chairman. I have an amendment  
1109 at the desk, number-

1110 Chairman Conyers. Clerk will report it-

1111 The Clerk. Amendment to H.R. 42, offered by Mr. King,  
1112 of Iowa. In section 3b, add at the end the following flush  
1113 sentence: The Commission shall include only members who are  
1114 distinguished scholars and academic historians who will be  
1115 able to provide expertise and impartiality, and who have made  
1116 no-

1117 [The amendment by Mr. King follows:]

1118 \*\*\*\*\* INSERT \*\*\*\*\*

1119 Chairman Conyers. Without objection, the amendment will  
1120 be considered as read, and the author of the amendment is  
1121 recognized in support of it.

1122 Mr. King. Thank you, Mr. Chairman. And at the opening  
1123 of the discussion into this, this is an impartiality  
1124 amendment. I would simply remark that a committee that fails  
1125 to put its intentions into the legislation that we pass, any  
1126 court that might determine or the subsequent legislature that  
1127 would try to consider our intent would also consider the  
1128 results of recorded votes.

1129 And I offer that as a precursor to the discussion on  
1130 this amendment because I believe that the interpretation will  
1131 be that this committee voted to support reparations, and now  
1132 I am going to ask this committee to codify their position  
1133 with regard to impartiality on the commission that would be  
1134 established if this bill passes.

1135 And so this amendment just simply says the commission  
1136 shall include only members who are distinguished scholars and  
1137 academic historians who will be able to provide expertise and  
1138 impartiality, and who have made no prior judgment about the  
1139 facts to be examined by the commission.

1140 And we have seen, and I think we know—most of us are  
1141 seasoned in public policy—if you seek to get a result from a  
1142 commission or a committee, the selection of that committee is  
1143 key in producing the results that you might want. And if we

1144 are objective about this—and I don't know that we are,  
1145 judging by the result of the last recorded vote, but if we  
1146 are objective on this it is incumbent upon us to support this  
1147 amendment that requires that the commissioners that would be  
1148 appointed would be objective, impartial commissioners and  
1149 distinguished scholars and academic historians. That should  
1150 be the qualification criteria—

1151 Chairman Conyers. Would the gentleman yield?

1152 Mr. King. I would yield, Mr. Chairman.

1153 Chairman Conyers. Would this exclude former members of  
1154 Congress from the Judiciary Committee?

1155 Mr. King. I hadn't contemplated such a thing, Mr.  
1156 Chairman. I would have to consider, perhaps, any individual  
1157 that might be a distinguished scholar, academic historian,  
1158 and also a former member. I don't know whom that might be.

1159 Chairman Conyers. Are you suggesting there are none  
1160 such on the Judiciary Committee?

1161 Mr. King. Certainly not, Mr. Chairman, but I can pick  
1162 up the implications of your question.

1163 Mr. Goodlatte. Would the gentleman yield?

1164 Mr. King. I would yield to the gentleman from Virginia.

1165 Mr. Goodlatte. I would hope that the two are not  
1166 mutually exclusive.

1167 [Laughter.]

1168 Mr. King. Let us put into this intent language—

1169 reclaiming—that any member that fits the criteria of this  
1170 amendment, should it pass, would certainly be considered.  
1171 But I think it is hard to find a member of this Congress, let  
1172 alone a member of this Judiciary Committee, who has  
1173 distinguished themselves as being completely impartial,  
1174 judging from some of our experiences here, however we might  
1175 try.

1176         And I think it does raise the point of the necessity of  
1177 this amendment, because I think we have seen a partisan vote  
1178 in the previous amendment that I have offered that simply  
1179 stated the intentions that I heard come from the mouths of  
1180 the proponents of this bill, including Mr. Lungren.

1181         And now, if we are really serious—and we don't even have  
1182 to be really serious; we just have to simply be objective—we  
1183 should have, if we are going to have a commission, a  
1184 commission that is filled with people who have reached this  
1185 level—the academic level, this expertise that is in my  
1186 amendment, and not having reached a prior judgment. If there  
1187 is no prior judgment there then they have a chance to be  
1188 objective.

1189         I would point out that President Bush, some years ago,  
1190 established a tax commission, and wanted the tax commission  
1191 to take a look at the tax structure of the United States.  
1192 And the purpose of that commission was to bring about the  
1193 best type of tax structure that could have a healthy, growing

1194 economy. And one of the criteria for being seated on that  
1195 commission was not having made a prior judgment.

1196 Now, I was a little critical of that because not having  
1197 made a prior judgment might disqualify people—if you don't  
1198 have an opinion maybe you don't know enough about the subject  
1199 and that is why you haven't made a prior judgment. But we  
1200 want to avoid the bias. The language in this says "not  
1201 having made a prior judgment," and even though it might have  
1202 contradicted a previous statement that I made about the tax-  
1203 writing commission, this commission should be unbiased and  
1204 they should be historians, they should be distinguished  
1205 scholars. And I would urge that we codify that in this bill  
1206 and I would urge the adoption of this amendment, and I would  
1207 yield back the balance of my time.

1208 Chairman Conyers. I thank the gentleman and recognize  
1209 Mr. Quigley.

1210 Mr. Quigley. Thank you, Mr. Chairman.

1211 And I guess my question of the gentleman proposing the  
1212 amendment is, if we are dealing with objectivity, I look at  
1213 some of the language here and ask if any of this is  
1214 potentially objective. I attended three universities, taught  
1215 at two different universities, and I never saw anybody with a  
1216 placard on their door that said "distinguished scholar" or  
1217 "academic historian." They were either historians or they  
1218 were professors.

1219           At some point in time we are going to have to decide who  
1220 is distinguished and who is just a scholar, and who is a  
1221 historian and who is an academic historian. And it almost  
1222 sounds like in the last part of this amendment we are asking  
1223 people to sign an affidavit of some sort that they have made  
1224 no prior judgment about the facts to be examined. It sounds  
1225 like someone being prepared for a jury pool. So at some  
1226 point we have to ask ourselves who is being objective or  
1227 subjective here, and if we are just adding words to something  
1228 to throw a wrench into the works.

1229           Mr. King. Would the gentleman yield?

1230           Mr. Quigley. Certainly.

1231           Mr. King. And I thank the gentleman, and making this  
1232 point that you could only be one, a distinguished scholar or  
1233 an academic historian—I wouldn't know that that couldn't be  
1234 sustained, but I would suggest that we take a look at the  
1235 record of the names of the people that will be presented to  
1236 be considered for appointment to the commission and evaluate  
1237 their works and their writings and their statements to  
1238 determine if they actually are distinguished scholars.

1239           I wouldn't know why you could be a—why you couldn't be a  
1240 distinguished scholar and an academic historian. In fact, if  
1241 you are an academic historian I don't know how you would be  
1242 excluded from being a distinguished scholar, but as some of  
1243 the recommendations over here on this side said is that we

1244 ask members of a jury to be impartial, so the impartiality  
1245 component of this should be an automatic and should be a  
1246 given, and I think that is actually a very important  
1247 component of this—the impartiality—and that is a harder one  
1248 to reach than maybe being a distinguished scholar or an  
1249 academic historian.

1250       Again, I would urge this adoption, and I would yield  
1251 back to the gentleman.

1252       Mr. Quigley. I respect what the gentleman suggests, but  
1253 at some point I feel like in the middle of a Monty Python  
1254 skit, deciding who is distinguished and who is academic and  
1255 who is just a scholar or an historian. And I think in the  
1256 end it is going to come down to people's good faith, and that  
1257 is true for every commission board that we deal with.

1258       Chairman Conyers. All in favor of the King amendment,  
1259 indicate by saying "aye."

1260       [A chorus of ayes.]

1261       Chairman Conyers. All those opposed, say "no."

1262       [A chorus of noes.]

1263       Chairman Conyers. Noes have it. The amendment failed.

1264       Mr. King. Mr. Chairman?

1265       Chairman Conyers. A recorded vote is demanded.

1266       Mr. King. Thank you, Mr. Chairman.

1267       Chairman Conyers. Clerk will call the roll.

1268       The Clerk. Mr. Conyers?

1269 Chairman Conyers. No.

1270 The Clerk. Mr. Conyers votes no.

1271 Mr. Berman?

1272 [No response.]

1273 Mr. Boucher?

1274 [No response.]

1275 Mr. Nadler?

1276 Mr. Nadler. No.

1277 The Clerk. Mr. Nadler votes no.

1278 Mr. Scott?

1279 Mr. Scott. No.

1280 The Clerk. Mr. Scott votes no.

1281 Mr. Watt?

1282 [No response.]

1283 Ms. Lofgren?

1284 [No response.]

1285 Ms. Jackson Lee?

1286 [No response.]

1287 Ms. Waters?

1288 Ms. Waters. No.

1289 The Clerk. Ms. Waters votes no.

1290 Mr. Delahunt?

1291 [No response.]

1292 Mr. Wexler?

1293 Mr. Wexler. No.

1294 The Clerk. Mr. Wexler votes no.  
1295 Mr. Cohen?  
1296 Mr. Cohen. No.  
1297 The Clerk. Mr. Cohen votes no.  
1298 Mr. Johnson?  
1299 Mr. Johnson. No.  
1300 The Clerk. Mr. Johnson votes no.  
1301 Mr. Pierluisi?  
1302 Mr. Pierluisi. No.  
1303 The Clerk. Mr. Pierluisi votes no.  
1304 Mr. Quigley?  
1305 Mr. Quigley. No.  
1306 The Clerk. Mr. Quigley votes no.  
1307 Ms. Chu?  
1308 Ms. Chu. No.  
1309 The Clerk. Ms. Chu votes no.  
1310 Mr. Gutierrez?  
1311 [No response.]  
1312 Ms. Baldwin?  
1313 [No response.]  
1314 Mr. Gonzalez?  
1315 [No response.]  
1316 Mr. Weiner?  
1317 Mr. Weiner. No.  
1318 The Clerk. Mr. Weiner votes no.

- 1319 Mr. Schiff?
- 1320 Mr. Schiff. No.
- 1321 The Clerk. Mr. Schiff votes no.
- 1322 Ms. Sanchez?
- 1323 Ms. Sanchez. No.
- 1324 The Clerk. Ms. Sanchez votes no.
- 1325 Ms. Wasserman Schultz?
- 1326 Ms. Wasserman Schultz. No.
- 1327 The Clerk. Ms. Wasserman Schultz votes no.
- 1328 Mr. Maffei?
- 1329 Mr. Maffei. I will pass.
- 1330 The Clerk. Mr. Maffei passes.
- 1331 Mr. Smith?
- 1332 Mr. Smith. Aye.
- 1333 The Clerk. Mr. Smith votes aye.
- 1334 Mr. Goodlatte?
- 1335 Mr. Goodlatte. Aye.
- 1336 The Clerk. Mr. Goodlatte votes aye.
- 1337 Mr. Sensenbrenner?
- 1338 Mr. Sensenbrenner. Aye.
- 1339 The Clerk. Mr. Sensenbrenner votes aye.
- 1340 Mr. Coble?
- 1341 Mr. Coble. Aye.
- 1342 The Clerk. Mr. Coble votes aye.
- 1343 Mr. Gallegly?

1344 [No response.]  
1345 Mr. Lungren?  
1346 Mr. Lungren. Aye.  
1347 The Clerk. Mr. Lungren votes aye.  
1348 Mr. Issa?  
1349 [No response.]  
1350 Mr. Forbes?  
1351 Mr. Forbes. Aye.  
1352 The Clerk. Mr. Forbes votes aye.  
1353 Mr. King?  
1354 Mr. King. Aye.  
1355 The Clerk. Mr. King votes aye.  
1356 Mr. Franks?  
1357 [No response.]  
1358 Mr. Gohmert?  
1359 [No response.]  
1360 Mr. Jordan?  
1361 Mr. Jordan. Yes.  
1362 The Clerk. Mr. Jordan votes yes.  
1363 Mr. Poe?  
1364 Mr. Poe. Yes.  
1365 The Clerk. Mr. Poe votes yes.  
1366 Mr. Chaffetz?  
1367 Mr. Chaffetz. Aye.  
1368 The Clerk. Mr. Chaffetz votes aye.

- 1369 Mr. Rooney?
- 1370 Mr. Rooney. Aye.
- 1371 The Clerk. Mr. Rooney votes aye.
- 1372 Mr. Harper?
- 1373 Mr. Harper. Aye.
- 1374 The Clerk. Mr. Harper votes aye.
- 1375 Chairman Conyers. Mr. Mel Watt?
- 1376 Mr. Watt. No.
- 1377 The Clerk. Mr. Watt votes no.
- 1378 Chairman Conyers. Ms. Baldwin?
- 1379 Ms. Baldwin. No.
- 1380 The Clerk. Ms. Baldwin votes no.
- 1381 Chairman Conyers. Judge Gohmert?
- 1382 Mr. Gohmert. Aye.
- 1383 The Clerk. Mr. Gohmert votes aye.
- 1384 Chairman Conyers. Mr. Franks?
- 1385 Mr. Franks. Aye.
- 1386 The Clerk. Mr. Franks votes aye.
- 1387 Chairman Conyers. Mr. Maffei?
- 1388 The Clerk. Mr. Maffei passed.
- 1389 Mr. Maffei. No.
- 1390 The Clerk. Mr. Maffei votes no.
- 1391 Chairman Conyers. Any others? Clerk will report.
- 1392 The Clerk. Mr. Chairman, 14 members votes aye, 17
- 1393 members voted nay.

1394 Chairman Conyers. The amendment is unsuccessful.

1395 A reporting quorum being present, the question is on

1396 reporting the bill, as amended, favorably to the House.

1397 Those in favor, say "aye."

1398 [A chorus of ayes.]

1399 Chairman Conyers. Those opposed, say "no."

1400 [A chorus of noes.]

1401 Chairman Conyers. The ayes have it.

1402 Mr. King. Mr. Chairman?

1403 Chairman Conyers. A recorded vote is demanded. Clerk

1404 will call the roll.

1405 The Clerk. Mr. Conyers?

1406 Chairman Conyers. Aye.

1407 The Clerk. Mr. Conyers votes aye.

1408 Mr. Berman?

1409 [No response.]

1410 Mr. Boucher?

1411 [No response.]

1412 Mr. Nadler?

1413 Mr. Nadler. Aye.

1414 The Clerk. Mr. Nadler votes aye.

1415 Mr. Scott?

1416 Mr. Scott. Aye.

1417 The Clerk. Mr. Scott votes aye.

1418 Mr. Watt?

1419 [No response.]

1420 Ms. Lofgren?

1421 [No response.]

1422 Ms. Jackson Lee?

1423 [No response.]

1424 Ms. Waters?

1425 Ms. Waters. Aye.

1426 The Clerk. Ms. Waters votes aye.

1427 Mr. Delahunt?

1428 [No response.]

1429 Mr. Wexler?

1430 Mr. Wexler. Aye.

1431 The Clerk. Mr. Wexler votes aye.

1432 Mr. Cohen?

1433 Mr. Cohen. Aye.

1434 The Clerk. Mr. Cohen votes aye.

1435 Mr. Johnson?

1436 Mr. Johnson. Aye.

1437 The Clerk. Mr. Johnson votes aye.

1438 Mr. Pierluisi?

1439 Mr. Pierluisi. Aye.

1440 The Clerk. Mr. Pierluisi votes aye.

1441 Mr. Quigley?

1442 Mr. Quigley. Aye.

1443 The Clerk. Mr. Quigley votes aye.

1444 Ms. Chu?

1445 Ms. Chu. Aye.

1446 The Clerk. Ms. Chu votes aye.

1447 Mr. Gutierrez?

1448 Mr. Gutierrez. Aye.

1449 The Clerk. Mr. Gutierrez votes aye.

1450 Ms. Baldwin?

1451 [No reponse.]

1452 Mr. Gonzalez?

1453 [No response.]

1454 Mr. Weiner?

1455 Mr. Weiner. Aye.

1456 The Clerk. Mr. Weiner votes aye.

1457 Mr. Schiff?

1458 Mr. Schiff. Aye.

1459 The Clerk. Mr. Schiff votes aye.

1460 Ms. Sanchez?

1461 Ms. Sanchez. Aye.

1462 The Clerk. Ms. Sanchez votes aye.

1463 Ms. Wasserman Schultz?

1464 [No response.]

1465 Mr. Maffei?

1466 Mr. Maffei. Aye.

1467 The Clerk. Mr. Maffei votes aye.

1468 Mr. Smith?

1469 Mr. Smith. No.

1470 The Clerk. Mr. Smith votes no.

1471 Mr. Goodlatte?

1472 Mr. Goodlatte. No.

1473 The Clerk. Mr. Goodlatte votes no.

1474 Mr. Sensenbrenner?

1475 Mr. Sensenbrenner. No.

1476 The Clerk. Mr. Sensenbrenner votes no.

1477 Mr. Coble?

1478 Mr. Coble. No.

1479 The Clerk. Mr. Coble votes no.

1480 Mr. Gallegly?

1481 [No response.]

1482 Mr. Lungren?

1483 Mr. Lungren. Aye.

1484 The Clerk. Mr. Lungren votes aye.

1485 Mr. Issa?

1486 Mr. Issa. Aye.

1487 The Clerk. Mr. Issa votes aye.

1488 Mr. Forbes?

1489 Mr. Forbes. No.

1490 The Clerk. Mr. Forbes votes no.

1491 Mr. King?

1492 Mr. King. No.

1493 The Clerk. Mr. King votes no.

1494 Mr. Franks?  
1495 [No response.]  
1496 Mr. Gohmert?  
1497 Mr. Gohmert. Aye.  
1498 The Clerk. Mr. Gohmert votes aye.  
1499 Mr. Jordan?  
1500 Mr. Jordan. No.  
1501 The Clerk. Mr. Jordan votes no.  
1502 Mr. Poe?  
1503 Mr. Poe. No.  
1504 The Clerk. Mr. Poe votes no.  
1505 Mr. Chaffetz?  
1506 Mr. Chaffetz. No.  
1507 The Clerk. Mr. Chaffetz votes no.  
1508 Mr. Rooney?  
1509 Mr. Rooney. Aye.  
1510 The Clerk. Mr. Rooney votes aye.  
1511 Mr. Harper?  
1512 Mr. Harper. No.  
1513 The Clerk. Mr. Harper votes no.  
1514 Chairman Conyers. Mr. Mel Watt?  
1515 Mr. Watt. Aye.  
1516 The Clerk. Mr. Watt votes aye.  
1517 Chairman Conyers. Ms. Baldwin?  
1518 Ms. Baldwin. Aye.

1519 The Clerk. Ms. Baldwin votes aye.

1520 Chairman Conyers. Ms. Wasserman Schultz?

1521 Ms. Wasserman Schultz. Aye.

1522 The Clerk. Ms. Wasserman Schultz votes aye.

1523 Chairman Conyers. The clerk will report.

1524 The Clerk. Mr. Chairman, 22 members voted aye, 10  
1525 members voted nay.

1526 Chairman Conyers. H.R. 42 is reported, and without  
1527 objection it will be reported as a single amendment in the  
1528 nature of a substitute incorporating amendment—staff is  
1529 authorized to make technical conforming changes and there  
1530 will be 2 days for members to submit views.

1531 Pursuant to notice, I call up now H.R. 1425, Wartime  
1532 Treatment Study Act, for purposes of markup and invite the  
1533 clerk to report the bill.

1534 The Clerk. H.R. 1425, a bill to establish commissions  
1535 to review the facts and circumstances surrounding injustices  
1536 suffered by European Americans, European Latin Americans, and  
1537 Jewish refugees during World War II.

1538 [The bill follows:]

1539 \*\*\*\*\* INSERT \*\*\*\*\*

1540 Chairman Conyers. I would invite our colleague, the  
1541 gentleman from Florida, Mr. Robert Wexler, sponsor of the  
1542 bill, to make an opening statement.

1543 Mr. Wexler. Thank you, Mr. Chairman. I want to thank  
1544 you for all of your assistance on this piece of legislation  
1545 as well as Congresswoman Lofgren for all of her extraordinary  
1546 assistance.

1547 And I just want to begin with the basic understanding  
1548 that the underlying premise of this bill is that all  
1549 Americans should be extraordinarily proud of our nation's  
1550 victory in World War II. And it is always appropriate to  
1551 highlight the remarkable courage displayed by so many  
1552 millions of Americans—tens of millions of Americans—of all  
1553 ethnic and religious origins in terms of our nation's actions  
1554 and behavior during the World War II period.

1555 We, as a nation, in the past have examined the treatment  
1556 of Japanese Americans during this period of time. And I  
1557 would respectfully suggest our nation is stronger as a result  
1558 of that examination in terms of what we did and what maybe in  
1559 the future, if faced with similar circumstances, could learn  
1560 from that behavior so that we might do it better.

1561 In this vein, it is important for the Congress to  
1562 recognize the particular hardships that certain European  
1563 Americans and Jewish refugees endured during the World War II  
1564 period. The bill seeks to draw attention to this forgotten

1565 part of our history. And what the bill requires is the  
1566 creation of a commission to review the government's behavior  
1567 with respect to certain communities within the very rich  
1568 American fabric.

1569 And in that light, I want to thank my Republican  
1570 colleagues for being quite proactive and well-intentioned, in  
1571 terms of working with me throughout this process. And I  
1572 believe at the subcommittee it received a heavy dose of  
1573 bipartisan support, and I am grateful for that. With that, I  
1574 can return the balance of my time.

1575 Mr. Nadler. [Presiding.] I thank the gentleman.

1576 I now yield to the distinguished ranking—I now recognize  
1577 the distinguished ranking member of this committee.

1578 Mr. Smith. Thank you, Mr. Chairman. H.R. 1425, the  
1579 Wartime Treatment Study Act, creates two commissions. The  
1580 first, a European American commission, reviews the U.S.  
1581 government's treatment of people of German and Italian  
1582 descent in America during World War II. The second  
1583 commission reviews the U.S. government's treatment of certain  
1584 Jewish refugees during World War II as well.

1585 The February 1983 report of the U.S. Commission on  
1586 Wartime Relocation and Internment of Civilians contains a  
1587 chapter regarding Germans and Italians. The report states,  
1588 "By February 16, 1942, the Justice Department had interned  
1589 2,192 Japanese, 1,393 Germans, and 264 Italians."

1590           The push for such a commission is nothing new. In fact,  
1591 as a response to requests for a commission to look at  
1592 America's World War II policies regarding Italian Americans,  
1593 Congress enacted the Wartime Violation of Italian American  
1594 Civil Liberties Act of 2000. That bill required the attorney  
1595 general to conduct a comprehensive review of the treatment by  
1596 the United States government of Italian Americans during  
1597 World War II and to submit to Congress a report that  
1598 documents the findings of such a review. The attorney  
1599 general issued the report on November 7, 2001.

1600           One of my concerns is that the European American  
1601 commission is required to "recommend appropriate remedies"  
1602 for the individuals affected by these government policies.  
1603 At the subcommittee markup, the ranking member offered an  
1604 amendment to prohibit reparations from being recommended by  
1605 the commission as a remedy. It was voted down along party  
1606 lines.

1607           I understand that the bill's author, the gentleman from  
1608 Florida, assured the subcommittee in writing that he did not  
1609 intend for the bill to lead to reparations. So I don't  
1610 understand why the subcommittee rejected the ranking member's  
1611 amendment explicitly addressing this.

1612           The possible biased nature of the proposed commission  
1613 members is also troubling. An amendment designed to address  
1614 this issue was accepted during the subcommittee markup. That

1615 was a step in the right direction.

1616           However, the amendment does not require that the members  
1617 be impartial, only that they have professional expertise  
1618 relating to the issue at hand. This in no way assures  
1619 impartial and unbiased decision making.

1620           I am also concerned that we continue to second guess the  
1621 decisions made by the administration faced with the realities  
1622 of being attacked by a foreign country. Measures like this  
1623 do not help move America forward. The American people do not  
1624 elect us to be mired in the past; they elect us to safeguard  
1625 their future.

1626           We should find ways to strengthen America, not regularly  
1627 issue apologies for actions that were taken by our government  
1628 to ensure our security. I urge my colleagues to oppose the  
1629 legislation and yield back, Mr. Chairman.

1630           Chairman Conyers. [Presiding.] I thank the gentleman.

1631           The gentleman from New York, Mr. Nadler?

1632           Mr. Nadler. Thank you.

1633           I support the legislation. I would simply point out  
1634 that one obvious way to strengthen this country is to learn  
1635 from our mistakes—to admit our mistakes and learn from them  
1636 so that we don't repeat them. And yes, World War II was a—is  
1637 often referred to as the last good war, in the sense of  
1638 nobody denies—almost nobody—denies its justification, denies  
1639 that we had no alternative, and that we are fighting truly

1640 evil regimes.

1641       Having said that, we did things in that war, as we have  
1642 in most of our other wars, that we shouldn't have done.

1643 Mistakes were made in good faith. That may be. I assume  
1644 they were. But mistakes were made and we can learn from our  
1645 mistakes and try to, through learning through those mistakes,  
1646 increase the odds that next time we have an impassioned  
1647 public.

1648       And one of the problems in a war is that the public and  
1649 the decision-makers become impassioned, hatred arises, all  
1650 kinds of emotions, and actions are taken that might not be  
1651 taken on pure logic. And one of the things that behooves  
1652 this country to do is to try to act in such a way that you  
1653 reduce the likelihood that we will make unfortunate decisions  
1654 in the light of passions on some future occasion when  
1655 passions are justified for other reasons.

1656       And so this kind of commission to study what we did  
1657 before, when we made a mistake, if we made a mistake, to the  
1658 extent we made a mistake, why we made a mistake, and perhaps  
1659 how to avoid that in the future makes eminent sense to  
1660 strengthen this country, to strengthen our reputation, to  
1661 strengthen our protection of liberties in the future.

1662       So I very much support this as well as, of course, to  
1663 afford justice to any survivors of mistakes made 70 years  
1664 ago, if they may still be around. That too. But

1665 specifically for the future, it is important that we pass  
1666 this legislation. So I urge its passage and I yield back.

1667 Chairman Conyers. The gentleman supports the bill and  
1668 opposes the amendment.

1669 Mr. Nadler. I certainly do.

1670 Chairman Conyers. Is there any further discussion?

1671 Mr. King. Mr. Chairman?

1672 Chairman Conyers. Yes?

1673 Mr. King. I move to strike the last word.

1674 Chairman Conyers. Gentleman is recognized.

1675 Mr. King. Thank you, Mr. Chairman.

1676 I oppose this bill, and as I have stated and as the  
1677 Ranking Member Smith has stated, the executive branch has  
1678 addressed the issue of World War II internment many times.  
1679 We have even addressed it with regard to Italian Americans.

1680 In the year 2000, Congress passed and the president  
1681 signed the Wartime Violation of Italian American Civil  
1682 Liberties Act. The bill directed the attorney general to  
1683 conduct a comprehensive review of the treatment by the  
1684 federal government of Italian Americans during World War II  
1685 and to report to Congress on the findings of the review.

1686 Such a report was issued in November of 2001 finding  
1687 that—and I quote—"after the December 7, 1941 attack on Pearl  
1688 Harbor, citizens and aliens of Italian descent were subjected  
1689 to a restriction including curfews, searches, confiscations

1690 of property, a loss of livelihood, and internment." Finding  
1691 of the commission, 2001.

1692       The report goes on to say: And individuals residing in  
1693 prohibited zones were required to move from their homes and  
1694 were excluded from certain areas, and persons of Italian  
1695 ancestry who were not United States citizens were declared  
1696 enemy aliens and were required to carry identification cards  
1697 designating them as such. In addition, the report points out  
1698 that these wartime restrictions were sanctioned by the Alien  
1699 Enemy Act of 1798, Presidential Proclamation number 2527,  
1700 Executive Order 9066, and other regulations.

1701       So I don't understand why we have to rehash the issue  
1702 except that this group and their descendents want the same  
1703 treatment as the Japanese Americans received. That is, Mr.  
1704 Chairman, reparations.

1705       Again, I don't understand how a monetary payment by  
1706 individuals who had nothing to do with the actions of the  
1707 U.S. government during World War II and likely had not yet  
1708 been born can make the situation any better. H.R. 1425  
1709 creates a commission to again study the treatment of Italian  
1710 Americans as well as individuals of German, Hungarian,  
1711 Romanian, and Bulgarian descent. It also requires that  
1712 commission to issue a report on its findings.

1713       Now, aside from the fundamental flaw of even creating  
1714 such a commission, the bill also contains additional flaws.

1715 It directs the commission to recommend "appropriate  
1716 remedies." It lacks acknowledgement of the justified reasons  
1717 that existed for such U.S. government activities, and its  
1718 findings basically direct the commission as to the outcome  
1719 that it should reach.

1720 As I stated previously during my statement on the  
1721 previous bill, which was H.R. 42, the president has left the  
1722 responsibility to protect—has the responsibility to protect  
1723 the population from future attack and from the theft of  
1724 military and intelligence secrets and acts of sabotage by our  
1725 enemies. If he didn't do so, he would be abdicating his duty  
1726 to protect Americans from those who want to do them harm.

1727 And so, Mr. Chairman, I am opposed to this bill, and I  
1728 do have some amendments to the bill, but I would yield back  
1729 the balance of my time and take my turn.

1730 Chairman Conyers. I thank the gentleman and recognize  
1731 Mr. Jordan—Mr. Chaffetz.

1732 Mr. Chaffetz. Thank you, Mr. Chairman. I appreciate  
1733 it.

1734 I would move to strike the last word.

1735 Chairman Conyers. Gentleman is recognized.

1736 Mr. Chaffetz. I simply want to thank Mr. Wexler and his  
1737 staff for the work that we did in offering up an amendment  
1738 that was accepted at the subcommittee level. I appreciate  
1739 that, and as a consequence I have a comfort level with this

1740 bill and look forward to supporting it.

1741       My only concern moving forward if this bill were to go  
1742 to the floor of the House is the potential scoring. We are a  
1743 country that is \$12 trillion in debt. We are upside down so  
1744 financially in this country that while I see value in being  
1745 able to do this, at a time with such high debts and deficits  
1746 I would have trouble spending even one dime on this type of  
1747 effort.

1748       We are in country in need of making decisions and being  
1749 fiscally prudent. We are not, as a whole. But I wanted to  
1750 be on the record and let Mr. Wexler and others know I am  
1751 supportive of the bill—the goals and ideals that we are  
1752 trying to accomplish here.

1753       I do concur with Mr. King that this should not be an  
1754 avenue or a stair step, if you will, to reparations. But I  
1755 think understanding, as Mr. Nadler and others have pointed  
1756 out, understanding our history of our country makes us  
1757 stronger, and look forward to supporting it as it is moving  
1758 forward with the concern about how it might be scored in the  
1759 future.

1760       And again, thank Mr. Wexler for his willingness to work  
1761 together.

1762       Thank you, Mr. Chair.

1763       Chairman Conyers. The vote occurs on the King  
1764 amendment. All in favor, say "aye."

1765 [A chorus of ayes.]

1766 Chairman Conyers. All opposed, say "no."

1767 [A chorus of noes.]

1768 Mr. King. Mr. Chairman, parliamentary inquiry.

1769 Chairman Conyers. Oh, I am sorry. Excuse me. We can't  
1770 vote it down anyway. There was no amendment.

1771 Chair recognizes Mr. King.

1772 Mr. King. I think we went fire, ready, aim that time,  
1773 Mr. Chairman. Mr. Chairman, I have an amendment at the desk  
1774 designated-

1775 Chairman Conyers. Clerk will report the amendment.

1776 The Clerk. Amendment to the amendment in the nature of  
1777 a substitute to H.R. 1425, offered by Mr. King, of Iowa.

1778 Page 10, line seven, add after the period the following:

1779 "For purposes of this Act, 'appropriate remedies' shall not  
1780 include any monetary-"

1781 [The amendment by Mr. King follows:]

1782 \*\*\*\*\* INSERT \*\*\*\*\*

1783 Chairman Conyers. Without objection, the amendment will  
1784 be considered as read, and the gentleman is recognized in  
1785 support of his amendment.

1786 Mr. King. Thank you, Mr. Chairman. I think we will be  
1787 familiar with the argument. This is the "no reparations"  
1788 amendment to this particular commission that would be set up  
1789 by this bill for the list of different nationalities that—

1790 Chairman Conyers. Would the gentleman yield?

1791 Mr. King. I would yield.

1792 Chairman Conyers. Has there not been discussion about  
1793 reparations and an agreement reached?

1794 Mr. King. Mr. Chairman, on the previous bill, yes. On  
1795 this bill, no. Not as far as an amendment is concerned.

1796 Thank you, Mr. Chairman. In continuing, I did raise the  
1797 issue in my opening statement, so I understand the question,  
1798 and this is the amendment that addresses that particular  
1799 subject. And we are familiar with the argument and it is  
1800 this: that the proponents of the bill will argue that they  
1801 are not for reparations, and they might write a letter and  
1802 state that they are not for reparations, but for some reason  
1803 they are extremely reticent about establishing that into the  
1804 text of the bill.

1805 We are supposed to write the legislative intent in this  
1806 legislation, and then the balance of the record that we have  
1807 fills out some of the details, and we seek to do that so

1808 courts don't have to make decisions on the intent of  
1809 Congress. And yet, as I hear the discussion it is, "No, we  
1810 are not for reparations," and I think one of the reasons is  
1811 because the proponents of the bill understand that with  
1812 Japanese reparations the same statement was made and it has  
1813 to come in under the radar, and then eventually the bait and  
1814 switch will take place.

1815         And I believe that this is a bait and switch bill that  
1816 sets up reparations—it leaves the door open for reparations.  
1817 In fact, it encourages reparations because it says  
1818 "appropriate remedies." And so my amendment specifically  
1819 addresses the issue of appropriate remedies and says they  
1820 shall not include any monetary compensation.

1821         And in response to Mr. Wexler's statement on the  
1822 previous bill, that it is unnecessary to have the legislation  
1823 say what we mean, I am amazed by that, that we can't simply  
1824 adopt an amendment that stipulates what appears to be at  
1825 least the stated intent of the proponents of the bill. And I  
1826 think the public would also be a bit astonished, Mr.  
1827 Chairman, to think that this committee would refuse to codify  
1828 the things we say we believe in and make the argument that,  
1829 "Well, of course we already know that we don't really intend  
1830 reparations so therefore there is no reason to write in the  
1831 bill the intention of the commission in the first place."

1832         Well, then there is no purpose for the bill if we

1833 already know, unless we simply have to fund a commission, not  
1834 establish or authorize a commission. It lays out the—with  
1835 specificity this commission, and we need to lay out with  
1836 specificity that it is the will and the intent of this  
1837 committee that there not be reparations paid under this bill.  
1838 And if we do vote down an amendment that says so, then their  
1839 only conclusion that can be drawn is that it is the intent of  
1840 this Judiciary Committee that there be reparations.

1841       And I think it is completely unjust to tax a generation  
1842 of people that were likely unborn at the time that these  
1843 incidents took place, let alone the question of passing  
1844 judgment from the perspective of 2009 on people that made  
1845 decisions in 1942. We simply cannot have that kind of  
1846 judgment.

1847       I think Franklin Delano Roosevelt did a great job in  
1848 World War II. I think he was instrumental in a magnificent  
1849 global victory, and it may have been the most glorious time  
1850 ever in the history of the United States. And I support most  
1851 of the decisions that he made.

1852       He failed elsewhere, but when he got to be the commander  
1853 in chief in the Second World War he made a lot of good  
1854 decisions, and America is far better for it. And now we are  
1855 wallowing in something that we are going to try to find some  
1856 guilt that we can pull back from the 1940s and impose the  
1857 reparations of that on the people that will be born in 2009,

1858 2010, and beyond.

1859           And I think that a Congress that has problems in the  
1860 here and now should be focused in the here and now and in the  
1861 future, not on the past. I urge the adoption of this  
1862 amendment—the amendment that just simply says, no  
1863 reparations, the intent of the people in this committee. And  
1864 I yield back the balance of my time.

1865           Chairman Conyers. Before recognizing Mr. Wexler, the  
1866 committee notes the appearance of Mr. Delahunt, and we are  
1867 grateful for his deigning to come and be with us for a while  
1868 today.

1869           Mr. Wexler?

1870           Mr. Wexler. Thank you, Mr. Chairman.

1871           First, I just want to thank Mr. Chaffetz for his earlier  
1872 remarks. I agree with his analysis entirely, and I have an  
1873 amendment later that we will consider that adopts precisely  
1874 what the ranking member of the subcommittee wishes done.

1875           As to the current amendment, this is not bait and  
1876 switch. There is nothing in the bill that provides for  
1877 reparations. If Congress were to do such a thing it would  
1878 require separate legislation, it would require an entirely  
1879 different process, none of which is in this bill.

1880           Both myself and the Senate sponsor, Senator Feingold,  
1881 have said in both oral testimony and discussions to our  
1882 respective committees, we do not seek reparations. We could

1883 not be more unequivocal. I have also put it in writing to  
1884 the subcommittee. I do not seek reparations. I cannot be  
1885 more specific than that.

1886 With respect to the commission itself, the purpose is to  
1887 examine the facts and circumstances of what occurred. This  
1888 is not an effort in finding apologies, or finding fault, or  
1889 finding anything punitive. Just the opposite. This is an  
1890 attempt to make certain that all of the actions, both good,  
1891 indifferent, bad, whatever it may be, that were taken can be  
1892 exposed in an academic and in an appropriate setting so that  
1893 we can learn. That is the entire exercise.

1894 And with respect to German Americans, with respect to a  
1895 number of European Americans, there is a history that needs  
1896 to be in a formal way exposed so that we can learn from it.  
1897 With respect to Jewish refugees in certain instances, again,  
1898 there were actions taken that our country can learn from.

1899 And I started by saying that the degree of appreciation  
1900 and the level that each and every American should feel in  
1901 terms of being proud about our nation's record during World  
1902 War II is an absolute—an absolute. But there are certain  
1903 instances where we as a nation, in fact, may have required  
1904 people of Austrian or German descent to leave our country—  
1905 Jewish Germans, Jewish Austrians—and they were required to  
1906 leave and to go back into a circumstance that I think, if  
1907 exposed, we can learn from.

1908 That is the point of this bill, and in that regard I

1909 would ask that we defeat Mr. King's amendment.

1910 Chairman Conyers. The vote occurs on the King

1911 amendment. All in favor, say "aye."

1912 [A chorus of ayes.]

1913 Chairman Conyers. All opposed, say "no."

1914 [A chorus of noes.]

1915 Chairman Conyers. Noes have it.

1916 Mr. King. Mr. Chairman?

1917 Chairman Conyers. And the recorded vote is required.

1918 The clerk will call the roll.

1919 The Clerk. Mr. Conyers?

1920 Chairman Conyers. No.

1921 The Clerk. Mr. Conyers votes no.

1922 Mr. Berman?

1923 [No response.]

1924 Mr. Boucher?

1925 [No response.]

1926 Mr. Nadler?

1927 Mr. Nadler. No.

1928 The Clerk. Mr. Nadler votes no.

1929 Mr. Scott?

1930 Mr. Scott. No.

1931 The Clerk. Mr. Scott votes no.

1932 Mr. Watt?

1933 [No response.]  
1934 Ms. Lofgren?  
1935 [No response.]  
1936 Ms. Jackson Lee?  
1937 [No response.]  
1938 Ms. Waters?  
1939 Ms. Waters. No.  
1940 The Clerk. Ms. Waters votes no.  
1941 Mr. Delahunt?  
1942 Mr. Delahunt. No.  
1943 The Clerk. Mr. Delahunt votes no.  
1944 Mr. Wexler?  
1945 Mr. Wexler. No.  
1946 The Clerk. Mr. Wexler votes no.  
1947 Mr. Cohen?  
1948 Mr. Cohen. No.  
1949 The Clerk. Mr. Cohen votes no.  
1950 Mr. Johnson?  
1951 Mr. Johnson. No.  
1952 The Clerk. Mr. Johnson votes no.  
1953 Mr. Pierluisi?  
1954 Mr. Pierluisi. No.  
1955 The Clerk. Mr. Pierluisi votes no.  
1956 Mr. Quigley?  
1957 Mr. Quigley. No.

1958 The Clerk. Mr. Quigley votes no.  
1959 Ms. Chu?  
1960 Ms. Chu. No.  
1961 The Clerk. Ms. Chu votes no.  
1962 Mr. Gutierrez?  
1963 [No response.]  
1964 Ms. Baldwin?  
1965 [No response.]  
1966 Mr. Gonzalez?  
1967 [No response.]  
1968 Mr. Weiner?  
1969 Mr. Weiner. No.  
1970 The Clerk. Mr. Weiner votes no.  
1971 Mr. Schiff?  
1972 Mr. Schiff. No.  
1973 The Clerk. Mr. Schiff votes no.  
1974 Ms. Sanchez?  
1975 Ms. Sanchez. No.  
1976 The Clerk. Ms. Sanchez votes no.  
1977 Ms. Wasserman Schultz?  
1978 [No response.]  
1979 Mr. Maffei?  
1980 [No response.]  
1981 Mr. Smith?  
1982 Mr. Smith. Aye.

1983 The Clerk. Mr. Smith votes aye.  
1984 Mr. Goodlatte?  
1985 Mr. Goodlatte. Aye.  
1986 The Clerk. Mr. Goodlatte votes aye.  
1987 Mr. Sensenbrenner?  
1988 [No response.]  
1989 Mr. Coble?  
1990 Mr. Coble. Aye.  
1991 The Clerk. Mr. Coble votes aye.  
1992 Mr. Gallegly?  
1993 [No response.]  
1994 Mr. Lungren?  
1995 [No response.]  
1996 Mr. Issa?  
1997 Mr. Issa. Aye.  
1998 The Clerk. Mr. Issa votes aye.  
1999 Mr. Forbes?  
2000 Mr. Forbes. Aye.  
2001 The Clerk. Mr. Forbes votes aye.  
2002 Mr. King?  
2003 Mr. King. Aye.  
2004 The Clerk. Mr. King votes aye.  
2005 Mr. Franks?  
2006 [No response.]  
2007 Mr. Gohmert?

2008 Mr. Gohmert. Aye.

2009 The Clerk. Mr. Gohmert votes aye.

2010 Mr. Jordan?

2011 [No response.]

2012 Mr. Poe?

2013 Mr. Poe. Aye.

2014 The Clerk. Mr. Poe votes aye.

2015 Mr. Chaffetz?

2016 [No response.]

2017 Mr. Rooney?

2018 Mr. Rooney. Aye.

2019 The Clerk. Mr. Rooney votes aye.

2020 Mr. Harper?

2021 Mr. Harper. Aye.

2022 The Clerk. Mr. Harper votes aye.

2023 Chairman Conyers. Mr. Mel Watt?

2024 Mr. Watt. No.

2025 The Clerk. Mr. Watt votes no.

2026 Chairman Conyers. Ms. Baldwin?

2027 Ms. Baldwin. No.

2028 The Clerk. Ms. Baldwin votes no.

2029 Chairman Conyers. Mr. Maffei?

2030 Mr. Maffei. No.

2031 The Clerk. Mr. Maffei votes no.

2032 Chairman Conyers. Clerk will report.

2033 The Clerk. Mr. Chairman, 10 members votes aye, 17  
2034 members voted nay.

2035 Chairman Conyers. The amendment is unsuccessful.

2036 Mr. King has one more amendment. Ms. Jackson Lee has  
2037 one amendment.

2038 The chair recognizes Mr. Wexler for an amendment.

2039 Mr. Wexler. Thank you, Mr. Chairman.

2040 This will be quick and it speaks to the issues that Mr.  
2041 Chaffetz—

2042 Chairman Conyers. Clerk will report the amendment.

2043 Mr. Wexler. Yes, please. Thank you.

2044 The Clerk. Amendment to the amendment in the nature of  
2045 a substitute to H.R. 1425, offered by Mr. Wexler, of Florida.  
2046 Page 16, line 15, insert "in Europe" after "genocide." Page  
2047 20, strike lines 9 through—

2048 [The amendment by Mr. Wexler follows:]

2049 \*\*\*\*\* INSERT \*\*\*\*\*

2050 Chairman Conyers. Without objection, the amendment will  
2051 be considered as read, and the gentleman—the author of the  
2052 bill is recognized for his amendment.

2053 Mr. Wexler. Thank you, Mr. Chairman. This will be  
2054 quick.

2055 As was stated earlier, the amendment does two things:  
2056 one, clarifies that the review, as it relates to the Jewish  
2057 refugee commission, will be related to the persecution or  
2058 genocide in Europe, and so we added that as a result of  
2059 discussions with the ranking member at the subcommittee level  
2060 as well as others. And second, as the ranking member of the  
2061 subcommittee pointed out, he was concerned about any  
2062 financial implications, so we made it clear that the \$1.2  
2063 million that was already appropriated to the Department of  
2064 Justice, there is striking to that language so, as has been  
2065 reported, the bill is budget neutral and the pay for the  
2066 commission members is zero, so there is no budgetary—should  
2067 be no budgetary issues, no mandatory costs, and that is the  
2068 effect of the amendment.

2069 Chairman Conyers. Chair recognizes Lamar Smith.

2070 Mr. Smith. Mr. Chairman, just briefly, I do support the  
2071 amendment. It doesn't change the bill substantively, and I  
2072 think it actually improves the bill. Appreciate the  
2073 gentleman offering and yield back.

2074 Chairman Conyers. All in favor of the amendment, say

2075 "aye."

2076 [A chorus of ayes.]

2077 Chairman Conyers. All opposed, say "no."

2078 [A chorus of noes.]

2079 Chairman Conyers. Ayes have it. The amendment is  
2080 carried.

2081 And Steve King is recognized for another amendment.

2082 Mr. King. Mr. Chairman, amendment number two is at the  
2083 desk.

2084 Chairman Conyers. Clerk will report the amendment.

2085 The Clerk. Amendment to the amendment in the nature of  
2086 a substitute to H.R. 1425, offered by Mr. King, of Iowa.  
2087 Page 5, line 25, strike "without bias" and insert "with  
2088 impartiality and without bias, and have made no prior  
2089 judgment about—"

2090 [The amendment by Mr. King follows:]

2091 \*\*\*\*\* INSERT \*\*\*\*\*

2092 Mr. King. Mr. Chairman, I ask unanimous consent that  
2093 the amendment be considered as read.

2094 Chairman Conyers. Without objection, so ordered. The  
2095 gentleman is recognized in support of his amendment.

2096 Mr. King. Thank you, Mr. Chairman. This is the  
2097 impartiality amendment that mirrors the amendment in the  
2098 previous legislation in H.R. 42. This is, of course, to the  
2099 European component of this H.R. 1425, and it established the  
2100 point that the commissioners, if this bill should pass, would  
2101 be established without bias and would require that they  
2102 demonstrate impartiality and that have made no prior judgment  
2103 about the facts to be examined by the commission. And so it  
2104 strikes the word "without bias."

2105 And again, it clarifies the American commission must be  
2106 impartial and not made a prior judgment about the fact to be  
2107 reviewed and reported by the commission. And I want to  
2108 emphasize this, that I appreciate the willingness of the  
2109 bill's author to work with the gentleman from Utah, and that  
2110 took place before the subcommittee markup to address these  
2111 concerns, but I think that further clarification is  
2112 necessary, and that is the purpose for this amendment.

2113 If the commission is stacked with members who have  
2114 already determined their actions, their intent, then this  
2115 will be going through the motions to reach a preconceived  
2116 conclusion, and this amendment will at least take a

2117 significant step towards ensuring that those who would be  
2118 appointed to and seated on the commission would be as  
2119 objective as possible.

2120         And I remember the discussion from the amendment on the  
2121 previous bill on impartiality, and if we have a scholar that  
2122 is appointed or someone who reaches the credentials of this  
2123 commission who is appointed who has a record of, let us say,  
2124 calling for reparations, then I would suggest that they were  
2125 disqualified from sitting on this commission.

2126         I think if we have someone who has a clear record of  
2127 having reached a biased conclusion or a conclusion that  
2128 doesn't consider the arguments for each side of this—and I  
2129 have made some of the arguments in defense of Franklin Delano  
2130 Roosevelt—I don't do that every day, Mr. Chairman, but today  
2131 I do—and so I think that if we see the bias in their record  
2132 that they should, by the language in this amendment, be  
2133 prohibited from sitting on the commission. And it encourages  
2134 a search for people who are objective.

2135         And we know that we can appoint a commission and get the  
2136 result we want just simply by choosing the people that sit on  
2137 it, and we want to avoid that if this is an objective  
2138 proposal here. And I do oppose the underlying bill to be  
2139 full disclosure on this, because I think to go back and dig  
2140 up history, we should let the historians do that, not the  
2141 commissioners. I am opposed to reparations. I am for

2142 impartiality.

2143       And by the way, I would point out, Mr. Chairman, the  
2144 contemporary issues that we have could be using the time of  
2145 this committee very well, and we know that there is a high  
2146 level of public focus on, let us say, election corruption and  
2147 fraud within large public organizations, including ACORN, and  
2148 I would suggest we use this committee's time for that, not  
2149 for this. But I urge the adoption of my amendment that would  
2150 require impartiality on the commission, and I would yield  
2151 back the balance of my time.

2152       Chairman Conyers. Thank you.

2153       Mr. Wexler?

2154       Mr. Wexler. Thank you, Mr. Chairman.

2155       I am in opposition to Mr. King's amendment, and I do  
2156 thank the gentleman from Iowa for his kind words and the  
2157 acknowledgment that I and others who worked with the ranking  
2158 member at the subcommittee to resolve these issues. In fact,  
2159 Mr. Chaffetz, at the subcommittee, offered an amendment which  
2160 I supported and was adopted by voice vote which, in essence,  
2161 did what Mr. King is asking. And that is, the commissioners  
2162 must be impartial, they must have professional expertise  
2163 relating to the issues addressed by the commission, and these  
2164 will be the people that are chosen by the president, the  
2165 speaker of the House, the president pro tem, all in concert  
2166 and based on recommendations from the majority and minority

2167 leaders of the respective bodies.

2168         So we have already taken care of whatever concerns there  
2169 are. And I would ask that we reject the amendment and move  
2170 on to pass the bill. Thank you, Mr. Chairman.

2171         Chairman Conyers. The vote occurs on the King  
2172 amendment. All in favor, say "aye."

2173         [A chorus of ayes.]

2174         Chairman Conyers. All opposed, say "no."

2175         [A chorus of noes.]

2176         Chairman Conyers. The amendment is unsuccessful, and a  
2177 reporting quorum being present, the question is on reporting  
2178 the bill, as amended, favorably to the House. Those in  
2179 favor, say "aye."

2180         [A chorus of ayes.]

2181         Chairman Conyers. Those opposed, say "no."

2182         [A chorus of noes.]

2183         Chairman Conyers. The ayes have it and the bill—

2184         Mr. King. Mr. Chairman?

2185         Chairman Conyers. —as amended, is ordered reported  
2186 favorably—

2187         Mr. King. Mr. Chairman?

2188         Chairman Conyers. —and a recorded vote is requested.

2189 Clerk will call the roll.

2190         The Clerk. Mr. Conyers?

2191         Chairman Conyers. Aye.

2192 The Clerk. Mr. Conyers votes aye.  
2193 Mr. Berman?  
2194 [No response.]  
2195 Mr. Boucher?  
2196 [No response.]  
2197 Mr. Nadler?  
2198 [No reponse.]  
2199 Mr. Scott?  
2200 Mr. Scott. Aye.  
2201 The Clerk. Mr. Scott votes aye.  
2202 Mr. Watt?  
2203 Mr. Watt. Aye.  
2204 The Clerk. Mr. Watt votes aye.  
2205 Ms. Lofgren?  
2206 [No response.]  
2207 Ms. Jackson Lee?  
2208 [No response.]  
2209 Ms. Waters?  
2210 Ms. Waters. Aye.  
2211 The Clerk. Ms. Waters votes aye.  
2212 Mr. Delahunt?  
2213 [No response.]  
2214 Mr. Wexler?  
2215 Mr. Wexler. Aye.  
2216 The Clerk. Mr. Wexler votes aye.

2217 Mr. Cohen?

2218 Mr. Cohen. Aye.

2219 The Clerk. Mr. Cohen votes aye.

2220 Mr. Johnson?

2221 Mr. Johnson. Aye.

2222 The Clerk. Mr. Johnson votes aye.

2223 Mr. Pierluisi?

2224 Mr. Pierluisi. Aye.

2225 The Clerk. Mr. Pierluisi votes aye.

2226 Mr. Quigley?

2227 Mr. Quigley. Aye.

2228 The Clerk. Mr. Quigley votes aye.

2229 Ms. Chu?

2230 Ms. Chu. Aye.

2231 The Clerk. Ms. Chu votes aye.

2232 Mr. Gutierrez?

2233 [No response.]

2234 Ms. Baldwin?

2235 [No reponse.]

2236 Mr. Gonzalez?

2237 [No response.]

2238 Mr. Weiner?

2239 Mr. Weiner. Pass.

2240 The Clerk. Mr. Weiner passes.

2241 Mr. Schiff?

2242 Mr. Schiff. Aye.

2243 The Clerk. Mr. Schiff votes aye.

2244 Ms. Sanchez?

2245 Ms. Sanchez. Aye.

2246 The Clerk. Ms. Sanchez votes aye.

2247 Ms. Wasserman Schultz?

2248 [No response.]

2249 Mr. Maffei?

2250 Mr. Maffei. Aye.

2251 The Clerk. Mr. Maffei votes aye.

2252 Mr. Smith?

2253 Mr. Smith. No.

2254 The Clerk. Mr. Smith votes no.

2255 Mr. Goodlatte?

2256 [No response.]

2257 Mr. Sensenbrenner?

2258 [No response.]

2259 Mr. Coble?

2260 Mr. Coble. No.

2261 The Clerk. Mr. Coble votes no.

2262 Mr. Gallegly?

2263 [No response.]

2264 Mr. Lungren?

2265 [No response.]

2266 Mr. Issa?

2267 Mr. Issa. Aye.

2268 The Clerk. Mr. Issa votes aye.

2269 Mr. Forbes?

2270 Mr. Forbes. No.

2271 The Clerk. Mr. Forbes votes no.

2272 Mr. King?

2273 Mr. King. No.

2274 The Clerk. Mr. King votes no.

2275 Mr. Franks?

2276 [No response.]

2277 Mr. Gohmert?

2278 [No response.]

2279 Mr. Jordan?

2280 [No response.]

2281 Mr. Poe?

2282 [No response.]

2283 Mr. Chaffetz?

2284 [No response.]

2285 Mr. Rooney?

2286 Mr. Rooney. Aye.

2287 The Clerk. Mr. Rooney votes aye.

2288 Mr. Harper?

2289 Mr. Harper. No.

2290 The Clerk. Mr. Harper votes no.

2291 Chairman Conyers. Ms. Baldwin?

2292 Ms. Baldwin. Aye.

2293 The Clerk. Ms. Baldwin votes aye.

2294 Chairman Conyers. Mr. Goodlatte?

2295 Mr. Goodlatte. No.

2296 The Clerk. Mr. Goodlatte votes no.

2297 Chairman Conyers. Mr. Weiner?

2298 Mr. Weiner. Aye.

2299 Chairman Conyers. Mr. Nadler?

2300 The Clerk. Mr. Weiner votes aye.

2301 Mr. Nadler. Aye.

2302 The Clerk. Mr. Nadler votes aye.

2303 Chairman Conyers. Clerk will report. Wait a minute.

2304 Mr. Boucher?

2305 Mr. Boucher. No.

2306 The Clerk. Mr. Boucher votes no. Mr. Boucher votes

2307 yes.

2308 Chairman Conyers. Judge Poe?

2309 Mr. Poe. No.

2310 The Clerk. Mr. Poe votes no.

2311 Chairman Conyers. Clerk will report.

2312 The Clerk. Mr. Chairman, 19 members voted aye, seven

2313 members voted nay.

2314 Chairman Conyers. The bill is successful, and without

2315 objection, it will be reported as a single amendment in the

2316 nature of a substitute incorporating amendments adopted, and

2317 staffs are authorized to make technical and conforming  
2318 changes, and members have 2 days to submit views.

2319       We have only two quick matters to dispose of before we  
2320 adjourn. H.R. 3237, to enact laws relating to national and  
2321 commercial space programs, is called up for purposes of  
2322 markup. The clerk will please report the bill.

2323       The Clerk. H.R. 3237, a bill to enact certain laws  
2324 relating to national and commercial space programs as Title  
2325 51, United States Code, "National and Commercial Space  
2326 Programs."

2327       [The bill follows:]

2328 \*\*\*\*\* INSERT \*\*\*\*\*

2329 Chairman Conyers. I thank the gentlelady. I will ask

2330 that my statement be put in the record.

2331 [The statement of Chairman Conyers follows:]

2332 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

2333 Chairman Conyers. And I yield to Lamar Smith.

2334 Mr. Smith. Thank you, Mr. Chairman.

2335 Mr. Chairman, I support, and I am also a cosponsor of  
2336 H.R. 3237, a bill proposed by the Office of Law Revision  
2337 Counsel to enact Title 51 of the U.S. Code as positive law.  
2338 Our committee has jurisdiction over law revision bills. That  
2339 is why we are considering this today.

2340 While numerous laws have been enacted over the years  
2341 dealing with national and commercial space programs, there is  
2342 no distinct title in the U.S. Code to consolidate these laws.  
2343 This is because the U.S. Code was established in 1926, long  
2344 before space programs were even imagined. This bill would  
2345 put all of these laws into one title within the code.

2346 H.R. 3237 and similar law revision bills are important  
2347 because they ensure that the U.S. Code is up to date,  
2348 accurate, and usable. Thank you, Mr. Chairman. I yield  
2349 back.

2350 Chairman Conyers. If there are no further comments, all  
2351 in favor of—chair yields to Mr. Cohen.

2352 Mr. Cohen. Thank you. Thank you, Mr. Chairman.

2353 In the spirit of bipartisanship, I would like to offer  
2354 an amendment I think we can all agree on, and that is that  
2355 nothing in the space program will allow ACORN to participate  
2356 in any meaningful manner.

2357 Chairman Conyers. The gentleman, I presume, is serious

2358 and wants this amendment reported.

2359 Mr. Watt. I object, if he is asking for unanimous  
2360 consent.

2361 Mr. Cohen. I will withdraw.

2362 Chairman Conyers. I thank the gentleman.

2363 All in favor of the bill under consideration, indicate  
2364 by saying "aye."

2365 [A chorus of ayes.]

2366 Chairman Conyers. All opposed, say "no."

2367 [A chorus of noes.]

2368 Chairman Conyers. The ayes have it, and the bill is so  
2369 ordered, and without objection we will have the appropriate 2  
2370 days to submit additional views, and the staff will be  
2371 authorized to make any conforming changes that may be  
2372 necessary.

2373 We now call up the rules of procedure and statement of  
2374 policy adopted in the Subcommittee on Immigration for  
2375 consideration of private immigration bills and ask the clerk  
2376 to report.

2377 The Clerk. Subcommittee on Immigration, Citizenship,  
2378 Refugees, Border Security, and International Law, Rules of  
2379 Procedure and Statement of Policy for Private Immigration  
2380 Bills.

2381 [The rules follow:]

2382 \*\*\*\*\* INSERT \*\*\*\*\*

2383 Chairman Conyers. I will put my statement in the  
2384 record.

2385 [The statement of Chairman Conyers follows:]

2386 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

2387 Chairman Conyers. -and recognize Lamar Smith.

2388 Mr. Smith. Thank you again, Mr. Chairman. I do support  
2389 the ratification of these rules. Mr. Chairman, they are  
2390 substantially the same as those that we have used in past  
2391 years. The only difference, I believe, in these rules is  
2392 that we have updated the citations to the law, and so I urge  
2393 my colleagues to support it and yield back.

2394 Chairman Conyers. Thank you.

2395 Chair recognizes Sheila Jackson Lee.

2396 Ms. Jackson Lee. Thank you very much, Mr. Chairman. I  
2397 was unavoidably detained on our major and important  
2398 legislation that I am totally in support of, and I would like  
2399 to register my vote as "aye" for H.R. 3596.

2400 I was meeting with the Department of Justice on some  
2401 crisis issues in Texas. Mr. Chairman, you have been to Texas  
2402 and you know that our criminal justice system is challenged.  
2403 So we were having that meeting and I want to vote "aye."

2404 And I also, Mr. Chairman, want to thank you for that  
2405 legislation and to add to the work that you have done in this  
2406 committee, we will be in 2141 on Tuesday, October 27th to  
2407 address the question of the impact of health care reform on  
2408 the uninsured, and I would hope that our colleagues would  
2409 join us at 9 a.m., October the 27th, 2009.

2410 I would ask unanimous consent that my vote for H.R. 3596  
2411 be registered as "aye."

2412 Chairman Conyers. Without objection.

2413 Ms. Jackson Lee. I have two others: I would like to  
2414 have my vote registered for H.R. 42, if I had been present,  
2415 because I had been detained, as "aye."

2416 Chairman Conyers. Without objection.

2417 Ms. Jackson Lee. H.R. 1425 as "aye."

2418 Chairman Conyers. Same.

2419 Ms. Jackson Lee. And it seems as if I came in as you  
2420 were voting on H.R. 3237, as "aye."

2421 And my last comment, Mr. Chairman, on both H.R. 42 and  
2422 H.R. 1425, both of these are legislative initiatives that I  
2423 support. But as I indicated earlier when we had started this  
2424 legislation a week or so ago, issues that you worked on  
2425 dealing with reparations, issues dealing with the whole  
2426 addressing of slavery in the United States also needs to be a  
2427 part of this committee's agenda, moving your legislation  
2428 forward and moving legislation forward that addresses those  
2429 punitive issues in this country that have yet, I believe, to  
2430 be fully addressed.

2431 And supporting these legislative initiatives, I think,  
2432 brings to mind that we have still more work to be done. And  
2433 I look forward to working with you, Mr. Chairman, maybe even  
2434 going to the floor as we look at how we can best address many  
2435 issues of discrimination that unfortunately in our nation  
2436 still hold.

2437           So I thank you for yielding to me, and I would finally  
2438 encourage our members to join us, because what you will hear  
2439 is a reemphasis of the legislation that we just passed out of  
2440 this committee dealing with health care and antitrust issues  
2441 when you hear what happens to people who don't have  
2442 insurance, who have been dropped from insurance, and  
2443 physicians who have been negatively impacted. And that will  
2444 be next week, October 27th, at 9 a.m., in 2141 Rayburn.

2445           Thank you very much, Mr. Chairman. I yield back.

2446           Chairman Conyers. The question is on the ratification  
2447 of the rules of procedure and statement of policy for  
2448 considering private immigration bills. All in favor will  
2449 signify by saying "aye."

2450           [A chorus of ayes.]

2451           Chairman Conyers. All opposed, say "no."

2452           [A chorus of noes.]

2453           Chairman Conyers. The ayes have it, and the rules and  
2454 statement of policy are ratified.

2455           This concludes our agenda for—wait a minute. Oh, I have  
2456 one—excuse me.

2457           I have one further item, and call up the rules of  
2458 procedure adopted in the Subcommittee on Immigration for  
2459 consideration of private claim bills to consider for  
2460 ratification and invite the clerk to report.

2461           The Clerk. Subcommittee on Immigration, Citizenship,

2462 Refugees, Border Security, and International Law, Rules of

2463 Procedure for Private Claims Bills.

2464 [The rules follow:]

2465 \*\*\*\*\* INSERT \*\*\*\*\*

2466 Chairman Conyers. I am going to insert my statement in  
2467 the record.

2468 [The statement of Chairman Conyers follows:]

2469 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

2470 Chairman Conyers. -and invite Lamar Smith to make a  
2471 statement or insert his.

2472 Mr. Smith. Mr. Chairman, I support them and yield back.

2473 Chairman Conyers. These rules are identical to the  
2474 rules ratified by this committee in the last Congress and in  
2475 previous Congresses with minor changes recommended by the  
2476 Congressional Research Service to update references to the  
2477 United States Code and to correct clerical errors.

2478 And so all other statements will be included in the  
2479 record. If there are no amendments, I want to invite all  
2480 those in favor of this ratification of private claims bill  
2481 rules to say "aye."

2482 [A chorus of ayes.]

2483 Chairman Conyers. And those opposed to say "no."

2484 [A chorus of noes.]

2485 Chairman Conyers. The ayes have it and the rules are  
2486 ratified, and-

2487 Ms. Jackson Lee. Mr. Chairman?

2488 Chairman Conyers. -the clerk will make any conforming  
2489 statement-will make any changes, and members will have 2  
2490 additional days to submit views-

2491 Ms. Jackson Lee. Mr. Chairman?

2492 Chairman Conyers. Yes, the gentlelady from Texas?

2493 Ms. Jackson Lee. Mr. Chairman, the work that you have  
2494 done and the collective members on this Health Insurance

2495 Industry Antitrust Enforcement Act, I would ask unanimous  
2496 consent if I might be added as a cosponsor of H.R. 3596?

2497 Chairman Conyers. Without objection. We would be  
2498 delighted to add your name to that—

2499 Ms. Jackson Lee. Thank you, Mr. Chairman.

2500 Chairman Conyers. —as a sponsor.

2501 I thank the committee, and it now stands adjourned.

2502 [Whereupon, at 12:15 p.m., the committee was adjourned.]