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2 STEVEN MOSKEY

3 HJU286000

4 FULL COMMITTEE MARKUP OF H.R. 2471, TO AMEND SECTION 2710 OF  
5 TITLE 18, UNITED STATES CODE, TO CLARIFY THAT A VIDEOTAPE  
6 SERVICE PROVIDER MAY OBTAIN A CONSUMER'S INFORMED, WRITTEN  
7 CONSENT ON AN ONGOING BASIS AND THAT CONSENT MAY BE OBTAINED  
8 THROUGH THE INTERNET; H.R. 2870, THE ADAM WALSH  
9 REAUTHORIZATION ACT OF 2011; H.R. 1254, THE SYNTHETIC DRUG  
10 CONTROL ACT OF 2011; H.R. 10, THE REGULATIONS FROM THE  
11 EXECUTIVE IN NEED OF SCRUTINY ACT OF 2011; H.R. 822, THE  
12 NATIONAL RIGHT-TO-CARRY RECIPROCITY ACT OF 2011; AND H.R.  
13 3012, THE FAIRNESS FOR HIGH-SKILLED IMMIGRANTS ACT  
14 Thursday, October 13, 2011  
15 House of Representatives  
16 Committee on the Judiciary  
17 Washington, D.C.

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

21           Present: Representatives Smith, Sensenbrenner, Coble,  
22 Gallegly, Goodlatte, Lungren, Chabot, Pence, Forbes, King,  
23 Franks, Gohmert, Jordan, Poe, Chaffetz, Griffin, Marino,  
24 Gowdy, Ross, Adams, Quayle, Amodei, Conyers, Berman, Nadler,  
25 Scott, Watt, Lofgren, Jackson Lee, Waters, Cohen, Johnson,  
26 Pierluisi, Quigley, Chu, Deutch, and Sanchez.

27           Staff Present: Sean McLaughlin, Majority Chief of  
28 Staff; Allison Halatei, Majority Deputy Chief of  
29 Staff/Parliamentarian; Sarah Kish, Clerk; Sarah Allen,  
30 Majority Counsel; Caroline Lynch, Majority Counsel; Perry  
31 Apelbaum, Minority Staff Director; and Joe Graupensperger,  
32 Minority Counsel.

33

34 Chairman Smith. [Presiding] The Judiciary Committee  
35 will come to order.

36 Without objection, the chair is authorized to declare  
37 recesses of the committee at any time. The clerk will call  
38 the roll to establish a quorum.

39 Ms. Kish. Mr. Smith?

40 Chairman Smith. Present.

41 Ms. Kish. Mr. Sensenbrenner?

42 Mr. Sensenbrenner. Here.

43 Ms. Kish. Mr. Coble?

44 Mr. Coble. Here.

45 Ms. Kish. Mr. Gallegly?

46 Mr. Gallegly. Here.

47 Ms. Kish. Mr. Goodlatte?

48 Mr. Goodlatte. Here.

49 Ms. Kish. Mr. Lungren?

50 Mr. Chabot?

51 Mr. Issa?

52 Mr. Pence?

53 Mr. Forbes?

54 Mr. King?

55 Mr. King. Here.

56 Ms. Kish. Mr. Franks?

57 Mr. Franks. Here.

58 Ms. Kish. Mr. Gohmert?

59 Mr. Jordan?

60 Mr. Poe?

61 Mr. Chaffetz?

62 Mr. Griffin?

63 Mr. Marino?

64 Mr. Gowdy?

65 Mr. Ross?

66 Mrs. Adams?

67 Mrs. Adams. Here.

68 Ms. Kish. Mr. Quayle?

69 Mr. Amodei?

70 Mr. Amodei. Here.

71 Ms. Kish. Mr. Conyers?

72 Mr. Berman?

73 Mr. Nadler?

74 Mr. Nadler. Here.

75 Ms. Kish. Mr. Scott?

76 Mr. Scott. Here.

77 Ms. Kish. Mr. Watt?

78 Mr. Watt. Present.

79 Ms. Kish. Ms. Lofgren?

80 Ms. Lofgren. Here.

81 Ms. Kish. Ms. Jackson Lee?

82 Ms. Waters?

83 Mr. Cohen?

84 Mr. Johnson?

85 Mr. Pierluisi?

86 Mr. Quigley?

87 Mr. Quigley. Here.

88 Ms. Kish. Ms. Chu?

89 Mr. Deutch?

90 Ms. Sanchez?

91 Mr. Marino?

92 Mr. Marino. Here.

93 [Pause.]

94 Chairman Smith. The clerk will report.

95 Ms. Kish. Mr. Chairman, 15 Members responded present.

96 Chairman Smith. Okay. A working quorum is present.

97 So we will proceed.

98 And pursuant to notice, I now call up H.R. 2471 for  
99 purposes of markup, and the clerk will report the bill.

100 Ms. Kish. H.R. 2471, to amend Section --

101 Chairman Smith. Without objection, the bill will be  
102 considered as read.

103 [The information follows:]

104

105 Chairman Smith. When we adjourned last week, we were  
106 in the process of considering a Mel Watt amendment, and we  
107 will consider that amendment now, except that I understand  
108 that the gentleman from North Carolina wants to withdraw  
109 that amendment and offer another one.

110 And the gentleman from North Carolina is recognized.

111 Mr. Watt. Mr. Chairman, I can't hear you down here.  
112 So I am having trouble hearing.

113 Chairman Smith. We will try our sound system. Is  
114 that better now?

115 Mr. Watt. Yes.

116 Chairman Smith. I was saying that when we adjourned  
117 last week, we were considering a Watt amendment. And we  
118 will resume consideration of that amendment, and the  
119 gentleman from North Carolina is recognized.

120 Mr. Watt. Mr. Chairman, I am not sure whether I need  
121 unanimous consent. But my desire is to withdraw the pending  
122 amendment and to offer a revised amendment instead.

123 Chairman Smith. Okay.

124 Mr. Watt. So if I need unanimous consent, I ask  
125 unanimous consent to withdraw the amendment that was pending

126 and to offer a revised amendment instead.

127 Chairman Smith. Without objection, the pending  
128 amendment is withdrawn, and the clerk will report the new  
129 amendment from the gentleman from North Carolina.

130 Ms. Kish. Amendment in the nature of a substitute to  
131 H.R. 2471, offered by Mr. Watt of North Carolina. Strike  
132 all that follows after the enacting clause and insert the  
133 following. "Section 1. Amendment. Section 2710(b)(2) of  
134 Title 18, United States Code, is amended by striking  
135 subparagraph (B) and inserting the following. B. To any  
136 person with the informed, written consent --"

137 Mr. Watt. Mr. Chairman, I ask unanimous consent the  
138 amendment be considered as read, unless somebody --

139 Chairman Smith. Without objection, the amendment will  
140 be considered as read.

141 [The information follows:]

142

143 Chairman Smith. And the gentleman from North Carolina  
144 is recognized to explain his amendment.

145 Mr. Watt. Thank you, Mr. Chairman.

146 The amendment that I had offered originally would have  
147 allowed consent to share information over social sites by  
148 giving that -- a customer giving that consent over the  
149 Internet electronically, but on a case-by-case basis. On  
150 further reflection -- well, one of the things that I was  
151 trying to achieve was to make sure that when a customer  
152 gives consent, it is actually a knowing consent. And it  
153 occurred to me that to protect a customer's privacy, in  
154 order for it to be a knowing consent, they ought to be able  
155 to give that consent on a case-by-case basis rather than on  
156 a universal basis.

157 There may be some movies that they would like to share  
158 with the public that they are watching. There may be some  
159 movies that they would not like to share with the public  
160 that they are watching. Some people may want to allow  
161 universal access to their viewing records. Some people may  
162 want to do it selectively. Some people may want to do it on  
163 a case-by-case basis.

164           This new amendment accommodates that in this respect  
165 because it allows people, customers who wish to give  
166 universal access to their viewing habits to do so by giving  
167 a universal consent, but it reserves to other customers who  
168 don't wish to do it and would rather do it on a case-by-case  
169 basis that option.

170           I think there are substantial privacy considerations  
171 at play here, and there are substantial questions of what  
172 constitutes knowing consent. One can have a knowing consent  
173 when they give the consent, but 2 months later realize that  
174 the consent that they gave for people to observe their  
175 viewing habits may be being accessed by their children in  
176 some way, and this may have implications for their privacy.  
177 But some people may wish to give the knowing consent and  
178 give it on a universal basis. And I am not trying to  
179 restrict people who wish to do that from doing that.

180           So this revised amendment would not require a case-by-  
181 case consent. It would accommodate both customers who wish  
182 to give a universal consent and accommodate customers who do  
183 not wish to give it, but wish to give it on a case-by-case  
184 basis.

185           Now the industry keeps telling me that this presents  
186 technological challenges for them. But I think those  
187 technological challenges, first of all, are overstated. But  
188 even if they are not overstated, I think that an  
189 individual's right to privacy takes precedence over whatever  
190 those technological challenges may be.

191           I think this revised amendment strikes a very good  
192 balance between giving the industry much, much greater  
193 access to the information that they want, and at the same  
194 time, it better protects customers who may not as knowingly  
195 be giving up their privacy as we would think they are. So  
196 that is the basis of this revised amendment.

197           I ask my colleagues to consider it carefully and  
198 support the amendment. I think it is a good balance.

199           And with that, I yield back the balance of my time.

200           Chairman Smith. Thank you, Mr. Watt.

201           The gentleman from Virginia, the sponsor of this  
202 legislation, Mr. Goodlatte, is recognized.

203           Mr. Goodlatte. Thank you, Mr. Chairman.

204           Mr. Chairman, I want to first thank the gentleman from  
205 North Carolina for his efforts to modify his amendment to

206 take into account the 21st century uses of the Internet by  
207 the people who do so, but I still have to oppose his  
208 amendment.

209         And the reason is that the underlying bill  
210 accommodates his concerns, especially when joined with the  
211 amendment that is going to be offered by the gentleman from  
212 New York, Mr. Nadler, which refines the informed consent  
213 aspect of this by requiring that it not be included in the  
214 consent that is given to put the information about what  
215 movies you are watching up on Facebook, or whatever Internet  
216 site you choose to do so. It would not be contained in the  
217 terms of contract, you know, along with dozens or scores of  
218 other items but, rather, would be a separate, unique  
219 consent.

220         And I think that is an improvement to the bill, and I  
221 know from my work on this and talking to folks in the  
222 industry, as the gentleman from North Carolina has, that  
223 that will work in a technological fashion.

224         As to the gentleman's concern about single uses, if it  
225 is a single rental of a movie, they can't put it up unless  
226 they get the consent. And if it is a situation where you

227 have given that ongoing consent and decide you want to  
228 withdraw it, that is contained in the underlying legislation  
229 as well.

230         The fact of the matter is that right now, today, if  
231 you want to listen to music on the Internet and tell your  
232 friends on a social network that you are listening to a  
233 particular song, and they want to click in and listen to the  
234 same song with you and comment with you about it and so on,  
235 they can do that right now. And they can do it seamlessly.  
236 The same thing would be true for books that are being read,  
237 magazine articles, anything except for video.

238         And the only reason why they can't do it for video is  
239 because of the Video Privacy Protection Act passed in 1987,  
240 long before any of this was contemplated, and because of the  
241 Supreme Court confirmation of Robert Bork when a video store  
242 employee wrongfully disclosed the content of video being  
243 watched by then-Supreme Court nominee Bork.

244         Now all of the purposes for that, I think, were good,  
245 and the underlying causes of that original passage of the  
246 legislation are preserved in this legislation. But this  
247 legislation modernizes it and allows the sharing of

248 information by people who freely determine to do so, to do  
249 so and do so in a seamless way.

250         And if at any time they say, "Nope, I don't want this  
251 particular video to go up on my Facebook page," or some  
252 other site, they can instantly -- not 30 minutes after they  
253 did the original consent, not 6 months after, but as soon  
254 after they did it. They say, "No, I am not going to do that  
255 for this one," they can do that right now.

256         So I would ask the gentleman that if he does not think  
257 the underlying bill language, which I think accomplishes his  
258 goal, especially when coupled with Mr. Nadler's informed  
259 consent amendment, which I support -- if he doesn't think  
260 that accomplishes that, if he would withdraw the amendment,  
261 I would be happy to work with him on refining it.

262         But I believe that it is a mistake to without  
263 considering the implications for how this will affect the  
264 use of this technology by people who want to do it and do do  
265 it right now for other forms of information sharing and  
266 entertainment sharing, if he would withdraw it, I would be  
267 happy to work with him and make sure that that intent works,  
268 but also works in a way that is seamless, both from the

269 standpoint of the industry and the standpoint of the  
270 consumers who want to have the ability to do this.

271 And for that reason, I must oppose his amendment.

272 Mr. Watt. If the gentleman would yield?

273 Mr. Goodlatte. Be happy to yield.

274 Mr. Watt. He asked me whether I would be willing to  
275 withdraw the amendment. It seems to me that if you would be  
276 willing to withdraw the bill and work with us, we might be  
277 able to work this out.

278 [Laughter.]

279 Mr. Watt. And if the bill had come through the  
280 subcommittee that the gentleman chairs, we probably would  
281 have been able to work it out. The problem is that we have  
282 rushed this thing through the process, and now you are here  
283 saying, "Okay, you withdraw." Well, withdraw the bill, and  
284 let us go back and work on the bill.

285 I mean, that is what we are here for. The bill is not  
286 going to go anywhere quickly anyway, I assume.

287 Mr. Goodlatte. I hope it does because there are a lot  
288 of consumers who would like to have the benefit of doing  
289 what they are already doing on all kinds of --

290 Mr. Watt. A lot of companies would like to have the  
291 benefit of sharing this information a lot more than a lot of  
292 consumers are clamoring for this.

293 Chairman Smith. The gentleman's time has expired.  
294 Without objection, the gentleman is granted an additional  
295 minute.

296 Mr. Goodlatte. Well, let me just say in response to  
297 that that if the gentleman will go online and read the blog  
298 posts and so on that exist, the gentleman will find that  
299 there is a lot of popular public support for this because  
300 they don't understand why their freedom to do this for music  
301 and books and a whole host of other types of information  
302 that they share online is restricted in this area.

303 Mr. Watt. Will the gentleman yield?

304 Mr. Goodlatte. I will in a moment if there is still  
305 time remaining.

306 The fact of the matter is that this legislation has  
307 been carefully vetted. The gentleman doesn't agree with it.  
308 I am willing to work with the gentleman, but if he -- I am  
309 not going to withdraw the bill if he is not going to  
310 withdraw the amendment. And I just oppose the amendment.

311 It does not fulfill the functions that he thinks it does  
312 without creating more problems than it solves.

313 And so, as a result of that, I would oppose the  
314 gentleman's amendment.

315 Chairman Smith. The gentleman's time has expired.  
316 Are there other Members who wish to be heard on the  
317 amendment?

318 Ms. Lofgren. Mr. Chairman?

319 Chairman Smith. The gentlewoman from California, Ms.  
320 Lofgren, is recognized.

321 Ms. Lofgren. I would like to just join in opposition  
322 to the amendment, and perhaps if we had had a subcommittee  
323 markup, this could have been flushed out. I agree with Mr.  
324 Watt that that might have been preferable, but here we are.

325 And I do think, I mean, right now, the state of the  
326 law is that you have to give individual, one-time consent.  
327 So I think this amendment really doesn't advance the ball.  
328 And the underlying bill, which I am a cosponsor of, should  
329 be approved. I mean, I think people that are lots younger  
330 than us really can't understand why the law would be as it  
331 is right now.

332 I mean, the reason for the law was, as the chairman  
333 has advanced, it had to do with abusive disclosure. This  
334 has to do with people who want to share their own  
335 information on Facebook or Google+ or whatever social  
336 network site. It is their decision. If they don't want to  
337 do it, they don't have to do it. If they change their mind,  
338 they can withdraw it.

339 I mean, I just think that this is not a hard concept  
340 to me at all, and I think that the amendment really does  
341 great damage to the underlying bill. And whether or not  
342 this is -- we have many great issues that face the country,  
343 unemployment and the like. This doesn't rise to that level,  
344 but it is something that can be corrected, that is worth  
345 correcting, that will mean something to young people across  
346 the country. And I hope that we can do it today and that  
347 the Senate will conclude.

348 We find ourselves in conflict on so many items. It  
349 seems to me that this is something, although it won't change  
350 the world, at least we can do, and we will accomplish  
351 something for people who want to share this information on  
352 social network sites.

353           So I hope that we can defeat the amendment that I am  
354   sure is offered in good faith and promptly approve the bill.  
355   I agree with the chairman that Mr. Nadler's amendment  
356   improves, that he is going to offer to separately determine  
357   what you want to share. Probably makes sense, just to make  
358   sure that people know what they are doing. I don't object.  
359   I think that probably makes this a better bill.

360           But I do agree -- we don't agree on everything, but I  
361   do agree with the chairman in this matter. And I thank Mr.  
362   Smith for recognizing.

363           I don't know if Mr. Watt has additional comments? If  
364   so, I would be happy to yield time.

365           Mr. Watt. If the gentlelady will yield? I appreciate  
366   her yielding.

367           Let me respond first to the magnitude of the issue.  
368   Obviously, the gentlelady didn't read the two handouts that  
369   I distributed at the markup before because for those people  
370   whose privacy had been invaded, the magnitude of this issue  
371   was mammoth.

372           And every issue we deal with in Congress, certainly  
373   every issue we deal with in the Judiciary Committee is not a

374 global, universal issue. It is important to individuals,  
375 and this is a privacy issue.

376 Right now, individuals on a case-by-case basis have  
377 the ability to do exactly what this bill would do. And the  
378 question is whether we are going to say, okay, you have got  
379 to do that case-by-case or whether you can do it  
380 universally, and this is somewhere between those two  
381 extremes.

382 So I am not persuaded by the fact that everything that  
383 we do in this committee has to have magnanimous, universal,  
384 world-shaking implications. But for the people who have  
385 their privacy invaded, this has that implication.

386 Ms. Lofgren. Reclaiming my time. I don't disagree  
387 that Mr. Bork's privacy was violated and that it is possible  
388 to do damage to people. That is not what this is about. I  
389 just profoundly disagree with the gentleman from North  
390 Carolina that this is the same situation.

391 This is about whether I decide whether I want to share  
392 this information. You don't want to do it, don't do it.

393 The amendment before us basically is what the current  
394 law is, that you can do it on a one-by-one basis. And that

395 is inefficient if you want to do -- if you go to Facebook or  
396 Google+, that is not what people are wanting to do. This is  
397 not a violation of anybody's privacy. It is an opportunity  
398 for people to move into the digital world and have an  
399 opportunity to share what they want to share.

400 And to think that it is a violation of privacy, I just  
401 don't get that at all. I just don't see it that way at all.

402 And my time has expired. So I yield back.

403 Chairman Smith. The gentlewoman yields back her time.

404 Are there any other Members who wish to be heard on  
405 the amendment? The gentleman from Texas, Mr. Gohmert, is  
406 recognized.

407 Mr. Gohmert. Thank you, Mr. Chairman.

408 I guess really I just have a question of the gentleman  
409 from Virginia, if I can? When it says "to any person," of  
410 course, most codes define a corporation as being a person.  
411 So that could be any living being or corporate being. But  
412 it says "with the informed, written consent, including  
413 through an electronic means using the Internet, of the  
414 consumer given at one or both of the following times." And  
415 that would include "in advance for a set period of time or

416 until consent is withdrawn by such consumer."

417           And I am wondering will this require a specific  
418 consent to that provision, or will this be like where they  
419 say to get a rental card for our videos or to rent online,  
420 you must check the box that says "I have read and agreed to"  
421 the 40 pages that are on the Internet, and it is buried in  
422 there? So you really have given informed consent, but you  
423 really -- you know, 99 percent of the people never read the  
424 40 pages and find out they have given that, nor the  
425 provision that until consent is withdrawn. So they don't  
426 really know that they are withdrawn.

427           And I am not sure, does this have to be specified  
428 standalone, or can this be buried in a 40-page consent? I  
429 would yield to the gentleman.

430           Mr. Goodlatte. I thank the gentleman for yielding.

431           The gentleman's question is an excellent one. It is  
432 about to be addressed by an amendment to be offered by the  
433 gentleman from New York, Mr. Nadler, which will require that  
434 it be a separate, unique consent and not buried in the large  
435 terms of consent of the agreement.

436           Mr. Gohmert. Thank you.

437 Chairman Smith. Thank you, Mr. Gohmert.

438 The gentleman from Virginia, Mr. Scott, is recognized.

439 Mr. Scott. Thank you, Mr. Chairman.

440 I would yield to the gentleman from North Carolina.

441 Mr. Watt. I thank the gentleman for yielding.

442 Let me just address this issue that this is the  
443 current state of the law. Obviously, some people haven't  
444 read the amendment. This is not the current state of the  
445 law.

446 Right now, you can't give this kind of consent through  
447 the Internet. You have got to give it in a written  
448 document. So the bill and this amendment would continue to  
449 allow that.

450 The question is whether you give individual consent,  
451 which is what my original amendment that I offered last week  
452 would have done, would have required individual case-by-case  
453 consent could be done through the Internet, could be done in  
454 a separate document, as Mr. Nadler's amendment would  
455 accommodate. But the question here is whether once you give  
456 that consent, it is for everything that you view or whether  
457 it is on a selected basis?

458           And I mean, you can give informed consent at the time  
459 that you are giving it, thinking that you are giving it only  
460 for that one time. And if people knowingly give the  
461 universal consent, I don't have any problem with that.

462           I mean, my colleague Ms. Lofgren and I are in  
463 agreement on that. But this is a question of what knowing  
464 consent really consists of. And I think if somebody doesn't  
465 want to give universal consent, they ought to be allowed not  
466 to have to give universal consent and then go back 2 weeks  
467 later and withdraw that consent.

468           This amendment actually accommodates more flexibility,  
469 it seems to me, than the underlying bill does. Again, if we  
470 had considered this amendment and the bill in the  
471 subcommittee, where it should have been considered, we could  
472 have done all of this in the subcommittee.

473           Mr. Goodlatte. Would the gentleman from Virginia  
474 yield?

475           Mr. Watt. Let me just finish before the gentleman  
476 yields to him.

477           Mr. Goodlatte, the chairman of my committee, has sent  
478 me word that he is planning to sit down with me and talk

479 about this and try to reach some kind of reasonable  
480 resolution. So there is a lot of misunderstanding, I think,  
481 about this. So I am just going to withdraw the amendment,  
482 with the understanding that we will sit down. We will try  
483 to work it out.

484 But I want to tell you I don't think that is the  
485 procedure we ought to be following in this committee. The  
486 place to work out these differences of opinion that really  
487 aren't as big as people are representing them to be is at  
488 the subcommittee level.

489 And if that had been done, these things could have  
490 been worked out. Me and Mr. Goodlatte could have worked in  
491 the regular order, not somewhere between here and the floor  
492 after the committee has acted on the bill and find a  
493 different bill when they show up on the floor of the House.  
494 That is not the way this system is supposed to work.

495 Mr. Conyers. Would Mr. Scott yield to me, please?

496 Mr. Goodlatte. Would the gentleman yield to me since  
497 I put the question? I would like to address that very point  
498 that is targeted at me.

499 Mr. Conyers. I will be very brief, and I thank the

500 gentleman for yielding.

501           But this amendment today is different from what I  
502 thought was happening yesterday. And I want to tell  
503 everybody, even though the gentleman from North Carolina is  
504 going to withdraw his amendment, the amendment he is  
505 withdrawing gives the power to the consumer to choose the  
506 manner and time they want to give consent to disclosure.

507           Now that is something that I think we all ought to be  
508 able to agree on here today. And now that we have reached  
509 an agreement to discuss it, when it comes back, I hope that  
510 this committee in a bipartisan way will support the Watt  
511 amendment.

512           Mr. Scott. Mr. Chairman, I ask unanimous consent for  
513 an additional minute.

514           Mr. Watt. Without objection, the gentleman from  
515 Virginia is yielded an additional minute.

516           Mr. Scott. And I yield to my colleague from Virginia.

517           Mr. Goodlatte. Well, first of all, let me say that I  
518 will be happy to work with the gentleman from North  
519 Carolina, if he withdraws the amendment, to make sure that  
520 we are both attempting to accomplish the same goal and do it

521 in a way that will work both for the consumer and the  
522 functionality that has to take place in order for the  
523 consumer to enjoy the benefit of doing this. So I am happy  
524 to do that.

525 But with regard to the gentleman's complaint about the  
526 process, let me first say that this legislation was referred  
527 to the Crime, Terrorism, and Homeland Security Subcommittee,  
528 not to the subcommittee that I chair and that the gentleman  
529 is the ranking member on. So it would not have been dealt  
530 with in our subcommittee, and I in no way knew of the  
531 gentleman's concerns nor intended to snub him in the  
532 process.

533 And beyond that, all I can say is I am happy to work  
534 with him as we move forward, but I do not think that we  
535 should hold up the legislation in the process.

536 Mr. Scott. Thank you, Mr. Chairman. I yield back.

537 Chairman Smith. Without objection, the amendment is  
538 withdrawn. And the gentleman from New York is recognized to  
539 offer an amendment.

540 Mr. Nadler. Thank you, Mr. Chairman.

541 I have a prepared statement, which I ask unanimous

542 consent to have read into the record. Since my amendment  
543 has been referred to so many times this morning already, I  
544 don't think I have to completely --

545 Chairman Smith. Without objection, the gentleman's  
546 statement will be made a part of the record.

547 [The statement of Mr. Nadler follows:]

548

549 Mr. Nadler. Thank you.

550 I don't think I have to completely explain it all over  
551 again. Suffice it to say it simply says that the consent  
552 must be in a form distinct and separate from any form  
553 setting forth other legal or financial obligations.

554 In other words, when you get a long statement of  
555 conditions or terms and conditions that is six pages long in  
556 tiny print, this can't be part of it. It has got to be a  
557 separate statement so that you see it.

558 Chairman Smith. I assume you still want to offer the  
559 amendment, do you not?

560 Mr. Nadler. I do offer the amendment. Oh, I am  
561 sorry.

562 Chairman Smith. The clerk will report the amendment.

563 Mr. Nadler. I offer the Amendment Number -- whatever  
564 it is -- 1.

565 Ms. Kish. Amendment to H.R. 2471, offered by Mr.  
566 Nadler of New York.

567 Chairman Smith. Without objection, the amendment will  
568 be considered as read.

569 [The information follows:]

570

571 Chairman Smith. Does the gentleman from New York have  
572 anything else to say about the amendment?

573 Mr. Nadler. It is a good amendment, and I urge  
574 everybody to adopt -- to support it.

575 Chairman Smith. Okay. The gentleman from Virginia,  
576 Mr. Goodlatte, is recognized.

577 Mr. Goodlatte. I thank the chairman, and I thank the  
578 gentleman for offering this amendment. I think it is a good  
579 amendment. I think it improves the bill.

580 I don't know that it addresses all the concerns  
581 addressed by the gentleman from North Carolina about the  
582 nature of informed consent, but I think it definitely  
583 enhances the awareness of the consumer that the consent is  
584 informed because it is contained in a separate approval,  
585 apart from all of the lengthy terms and conditions that one  
586 finds on almost anything one does on the Internet, where you  
587 have to click on something, say I agree to all these terms  
588 before I can do whatever I want to do.

589 Here, you will have to have a separate click that will  
590 say I agree to this specific provision that will allow me,  
591 as the consumer, to put my motion pictures up for my friends

592 to share, view at the same time as me, and so on.

593 And therefore, I support the amendment and urge my  
594 colleagues to do the same.

595 Chairman Smith. The question is on the amendment --

596 Mr. Watt. Mr. Chairman? Mr. Chairman?

597 Chairman Smith. The gentleman from North Carolina is  
598 recognized.

599 Mr. Watt. I just want to make it clear that I support  
600 the amendment. It is a move in the right direction, I  
601 agree, because where we all are trying to get to is a real,  
602 knowing consent that the customer has agreed to.

603 And I think that is what all of us are dealing with  
604 here. We have different philosophies about how you get  
605 there and what a knowing consent is, but we don't argue with  
606 the fact that the customer should make a knowing consent.

607 And so, I support the amendment and yield back.

608 Chairman Smith. Thank you, Mr. Watt.

609 The question is on the amendment. All in favor, say  
610 aye.

611 [A chorus of ayes.]

612 Chairman Smith. Opposed, nay.

613 [No response.]

614 Chairman Smith. In the opinion of the chair, the ayes  
615 have it. The amendment is agreed to.

616 Are there any other amendments to H.R. 2471?

617 Mr. Chabot. Mr. Chairman? Mr. Chairman?

618 Chairman Smith. The gentleman from Ohio, Mr. Chabot?

619 Mr. Chabot. Thanks, Mr. Chairman.

620 It was my intent to offer an amendment today to  
621 require the provider of video records to make a good faith  
622 effort to determine that the consumer is not less than 18  
623 years of age. It is my understanding that the chair has  
624 agreed to work with us to include report language to address  
625 this concern, in which case I won't offer the amendment, but  
626 I would just like to make a very brief statement.

627 Today's evolving technology has ushered in many  
628 positive improvements for both American businesses and our  
629 individual lives. However, along with the progress that has  
630 been made, these innovations also bring new challenges and  
631 issues that raise some concern.

632 Today, you can make a statement or post a photo on  
633 Facebook, and it will literally live forever in cyberspace.

634 Information that is freely posted may harm an individual  
635 professionally or otherwise years down the road.

636         The choice to share one's personal information and  
637 activity is an individual choice, but one which may carry  
638 long-term ramifications. My concern was that minors may not  
639 grasp the gravity of these choices, and therefore, we should  
640 do our best to protect their privacy until they are 18 years  
641 of age.

642         I support H.R. 2471 and believe it is a common sense  
643 solution to allow innovative companies to adjust their  
644 business models in order to move forward. However, I think  
645 we must ensure that we are giving this new ability to give  
646 consent online to those who are mature enough to understand  
647 what it is they are consenting to.

648         My proposed amendment would have required companies to  
649 make a good faith effort to ensure that those they are  
650 obtaining consent from are at least 18 years of age or  
651 older. This would allow online movie providers to use  
652 technology to better their services to customers while also  
653 protecting the privacy of minors.

654         Again, it is my understanding that the chair has

655 agreed to work with us on that. So with that understanding,  
656 we won't offer this amendment, and I yield back.

657 Chairman Smith. Thank you, Mr. Chabot.

658 A reporting quorum being present, the question is on  
659 reporting the bill, as amended, favorably to the House.

660 Those in favor, say aye.

661 [A chorus of ayes.]

662 Chairman Smith. Those opposed, no.

663 [No response.]

664 Chairman Smith. The ayes have it. And the bill, as  
665 amended, is reported favorably.

666 Without objection, the bill will be reported as a  
667 single amendment in the nature of a substitute incorporating  
668 the amendment adopted. Staff is authorized to make  
669 technical and conforming changes. Members will have 2 days  
670 to submit views.

671 We will now go to H.R. 822, the National Right-to-  
672 Carry Reciprocity Act of 2011. Pursuant to notice, I now  
673 call up H.R. 822 for purposes of markup. The clerk will  
674 report the bill.

675 Ms. Kish. H.R. 822, to amend Title 18, United States

676 Code, to provide a national standard in accordance with --  
677 Chairman Smith. Without objection, the bill will be  
678 considered as read.

679 [The information follows:]

680

681 Chairman Smith. I will recognize myself for an  
682 opening statement, and then the ranking member.

683 H.R. 822, the National Right-to-Carry Reciprocity Act  
684 of 2011 is sponsored by Mr. Stearns of Florida and  
685 cosponsored by 245 Members from both sides of the aisle.

686 The bill allows law-abiding gun owners with valid  
687 State-issued concealed firearms permits or licenses to carry  
688 a concealed firearm in any other State that also allows  
689 concealed carry. This legislation does not preempt a  
690 State's ability to set concealed carry requirements for its  
691 own residents.

692 It requires States that currently permit people to  
693 carry concealed firearms to recognize other States' valid  
694 concealed carry permits, much like the States recognize  
695 driver's licenses issued by other States.

696 H.R. 822 also does not affect State laws governing how  
697 firearms are carried or used within the various States. A  
698 person visiting another State must comply with all laws and  
699 regulations governing the carrying and use of a concealed  
700 firearm within that State.

701 Studies show that carrying concealed weapons reduces

702 violent crime rates by deterring would-be assailants and by  
703 allowing law-abiding citizens to defend themselves. A 1997  
704 study published by John Lott and David Mustard regarding the  
705 effect of concealed carry laws on crime rates estimated  
706 that, "When State concealed handgun laws went into effect in  
707 a county, murders fell by more than 7 percent, and rapes and  
708 aggravated assaults fell by similar percentages."

709         The study has been replicated and the results  
710 confirmed by other scholars, some of whom found that the  
711 Lott and Mustard study underestimated the effect of  
712 concealed carry laws on violent crime rates.

713         This bill simply allows Americans who travel in  
714 interstate commerce to bring their Second Amendment rights  
715 with them. Congress has previously passed laws to permit  
716 certain active-duty and retired law enforcement officers to  
717 carry concealed weapons in other States. H.R. 822 extends  
718 the same ability to all law-abiding citizens.

719         I support the legislation and encourage my colleagues  
720 to support it as well and recognize the ranking member, the  
721 gentleman from Michigan, Mr. Conyers, for his opening  
722 statement.

723           Mr. Conyers. Well, this is a great day in American  
724 jurisprudence. I have now been informed that the crime rate  
725 will go down if more people carry weapons. I will be  
726 writing a treatise on that, if not a book.

727           But I think that demonstrates what kind of discussion  
728 is going to flow from this measure. The crime rate will go  
729 down if more people carry weapons. And this is the country  
730 that has more deaths from guns than any other country in the  
731 world, but it will improve and the rate will go down if more  
732 people carried guns.

733           Like, for example, in 2141 Rayburn Building this  
734 morning, we were all carrying weapons, wouldn't that make  
735 you all feel safer? Come on. I mean, this is to reduce the  
736 possibility -- well, if somebody pulled out a gun and we  
737 could all carry weapons, I am not following this, Chairman  
738 Smith. There may have been a typo in your introductory  
739 remarks.

740           Suppose under this law the three lovely young ladies  
741 in front of the committee could all have weapons, and that  
742 would make me feel a lot better because without weapons,  
743 they would probably have to throw something or yell or

744 create a disturbance. But with weapons, and then we would  
745 have to warn them that we all had weapons, too.

746 So I think this is a very important --

747 Voice. That is supposed to be your job.

748 Mr. Conyers. It is our job to protect -- well, let me  
749 go to the problem that we are having here. There are 65  
750 million handguns in the United States of America, and in a  
751 1-year average, almost 100,000 people in America are shot  
752 and killed with a firearm. That is 100,000, more than.  
753 Approximately nine children and teens die every day from  
754 gunfire. That is one every 2 hours and 45 minutes.

755 In 2006, more preschool children were killed by  
756 firearms than law enforcement officers killed in the line of  
757 duty. That is that 63 preschool children were killed by  
758 firearms, and 48 law enforcement officers were killed in the  
759 line of duty.

760 Now what the bill suggests, and I presume that this  
761 has been vetted by those that are supporting it, what we  
762 need to reduce these insane rates of death is that we need  
763 more guns. In addition, African-American youngsters ages 15  
764 through 24, 300 are injured by gunfire each week.

765           And so, Mr. Chairman, I like the fact that we are now  
766 setting aside our States' rights profession, and there are  
767 many here that claim they are for State rights, including my  
768 friend the chairman. What about States' rights in this  
769 case?

770           Don't States have the right to determine this  
771 question? Should we not infringe on the right of States to  
772 protect their citizens, that States should be allowed to  
773 determine who should be allowed to carry a concealed weapon  
774 within their borders without being obligated to accept  
775 concealed carry permits from every other State?

776           Where is our sheriff on this committee? How could she  
777 stop somebody and find out whether they are from the right  
778 State and whether they should be able to carry a concealed  
779 weapon?

780           I yield back my time.

781           Chairman Smith. Would the gentleman yield to me?

782           Mr. Conyers. Of course.

783           Chairman Smith. And I will, without objection, yield  
784 him an additional 2 minutes.

785           Mr. Conyers. All right.

786 Chairman Smith. I wanted to respond to what the  
787 ranking member just said. He made three points, and I am  
788 not sure he meant what he said. He said that everybody  
789 would be able to carry firearms.

790 If you look at the procedure that is required for  
791 someone to obtain a concealed weapon license, it is a  
792 lengthy process. They go through a background check. They  
793 have a training period of, I think, at least 8 hours. So it  
794 is not that everyone can carry a weapon.

795 Also, the point of this legislation is not to allow  
796 additional individuals to carry weapons. It is simply to  
797 allow individuals who already have a concealed carry license  
798 to go and use that license in another State.

799 The third point that the gentleman made that somehow  
800 this was an abrogation of States' rights, actually, the bill  
801 protects States' rights and does not override the laws of  
802 States. For example, Illinois does not allow concealed  
803 carry at all. This bill recognizes the right of Illinois to  
804 prohibit individuals from a concealed carry license and does  
805 not impose that on them.

806 So I just want to reassure the gentleman on all three

807 points, and I will yield back.

808 Thank you.

809 Mr. Conyers. Well, I am happy to know that. Now I am  
810 okay. That means that everybody here can still carry a gun.

811 Chairman Smith. If the gentleman will yield? Only  
812 those who obtain a concealed carry license, which, as I say,  
813 is a training process involving at least 8 hours. It is a  
814 background check, and there are other requirements.

815 Mr. Conyers. Not in all States. No, sir. I would  
816 like to submit for the record what the requirements are in  
817 each State. They vary completely, Mr. Chairman.

818 Chairman Smith. Without objection, the gentleman is  
819 welcome to submit that to the record.

820 [The information follows:]

821

822 Mr. Conyers. I thank you.

823 Chairman Smith. The gentleman from Wisconsin, the  
824 chairman of the Crime Subcommittee, Mr. Sensenbrenner, is  
825 recognized.

826 Mr. Sensenbrenner. Thank you very much, Mr. Chairman.

827 The Crime Subcommittee did have a hearing on this  
828 legislation a while ago. And at that time, I expressed my  
829 concern about two points.

830 One is, is that the way the bill was drafted, it did  
831 not specifically address the States' right issue, and thus,  
832 there could be an argument made in court or elsewhere that a  
833 concealed carry holder from one State was entitled to bring  
834 his State's law into another State. The second problem that  
835 I saw was the lack of information on State concealed carry  
836 permits.

837 There will be a manager's amendment offered by the  
838 gentleman from Arizona, Mr. Franks, that solves both of  
839 these problems, and should that amendment be adopted, I will  
840 be happy to support the bill.

841 Chairman Smith. Thank you, Mr. Sensenbrenner.

842 The ranking member of the Crime Subcommittee, the

843 gentleman from Virginia, Mr. Scott, is recognized.

844 Mr. Scott. Thank you, Mr. Chairman.

845 Mr. Chairman, gun violence remains a major problem in  
846 our country, and as a nation, we continue to struggle with  
847 various proposals to address this issue. Unfortunately, I  
848 believe that this bill would be a major step backwards in  
849 the effort to enhance gun safety because it would overrule  
850 existing judgments enacted by States controlling who should  
851 be allowed to carry concealed weapons within their borders.

852 Setting aside for a moment the issue of whether it is  
853 a good idea to allow or encourage the carrying of concealed  
854 firearms, it is unwise and improper for us to discard the  
855 ability of States to protect the safety of their own  
856 citizens.

857 Now the ranking member has already mentioned that we  
858 heard testimony at the hearing from a witness invited by the  
859 majority that said essentially that the more people carry  
860 guns, the lower the crime rate will be. This is, I think,  
861 to most people counterintuitive.

862 I cite a letter, Mr. Chairman, from the Virginia  
863 Association of Chiefs of Police to this committee, stating

864 that, "H.R. 822 would severely undermine State concealed  
865 carry licensing systems by allowing out-of-State visitors to  
866 carry concealed firearms, even if those visitors have not  
867 met the standards for carrying a concealed weapon in the  
868 State they are visiting." I ask that letter be included in  
869 the record by unanimous consent.

870 Chairman Smith. Without objection, that will be made  
871 a part of the record.

872 [The information follows:]

873

874           Mr. Scott. Mr. Chairman, even more bizarre, a State  
875 resident who is prohibited in his own State from getting a  
876 concealed carry permit by his own State law, but not by  
877 Federal law, but by his own State law could, under this  
878 bill, totally evade the State law requirements and standards  
879 such as firearm education and training and visual acuity by  
880 obtaining a concealed carry permit in another State and then  
881 using that concealed carry permit anywhere in the country  
882 other than his own State.

883           If a State decides to enter into a reciprocity  
884 agreement with another State, as many States do, that is  
885 their right, and they can continue to exercise independent  
886 judgment about how to protect their own citizens. However,  
887 we in Congress should not strip them of that power and  
888 decide -- their power to decide and how to protect the  
889 safety of their citizens.

890           The bill represents -- the bill, as we heard during  
891 the subcommittee deliberations, presents police on the beat  
892 with an almost impossible challenge of knowing whether an  
893 out-of-State permit is even valid. We saw in the recent  
894 hearing examples of State permits that appeared extremely

895 easy to counterfeit. This is just another reason why we  
896 should not advance this bill.

897 At the hearing, we received testimony from  
898 Philadelphia Police Commissioner Ramsey about the  
899 unnecessary problems this bill presents to law enforcement,  
900 and experiences he had illustrate why we should reject this  
901 bill.

902 In this committee, we debate measures which I hope  
903 will protect public safety. Unfortunately, this bill does  
904 just the opposite. I, therefore, oppose the bill and urge  
905 my colleagues to do the same.

906 And I yield back.

907 Chairman Smith. Thank you, Mr. Scott.

908 The gentleman from Arizona, Mr. Franks, is recognized  
909 to offer an amendment in the nature of a substitute.

910 Mr. Franks. Well, thank you, Mr. Chairman.

911 I have an amendment at the desk.

912 Chairman Smith. The clerk will call the amendment.

913 Ms. Kish. Amendment in the nature of a substitute to

914 H.R. 822, offered by Mr. Franks of Arizona. Strike all

915 after the enacting clause and insert the following.

916 "Section 1. Short Title. This act may be cited as the  
917 National Right-to-Carry Reciprocity Act of 2011. Section 2  
918 --"

919 Mr. Franks. Mr. Chairman, I move the amendment be  
920 accepted as read.

921 Chairman Smith. Without objection, the amendment will  
922 be considered as read.

923 [The information follows:]

924

925 Chairman Smith. And the gentleman is recognized to  
926 explain his amendment.

927 Mr. Franks. Well, thank you, Mr. Chairman.

928 First, Mr. Chairman, let me suggest that I identify  
929 and endorse the substance of the chairman's opening  
930 statement. And in listening to some of the comments so far,  
931 I was struck by Mr. Conyers's perspective related to  
932 everyone on the committee here and the ladies out front  
933 having firearms. My guess is if that ever happened, even  
934 though it is totally outside the scope of this bill, that  
935 decorum would be strictly observed here. We would be very  
936 polite to each other, and insults and invective would  
937 probably be kept to a minimum.

938 Mr. Chairman, the fundamental issue here is whose  
939 hands the weapons are in, not in trying to put weapons in  
940 hands of people who have no respect for their fellow human  
941 beings.

942 H.R. 822 was initially introduced by Mr. Stearns of  
943 Florida, and it recognizes the important Second Amendment  
944 right to defend one's self and one's family by allowing  
945 people with a valid concealed carry permit or licensed to

946 carry a concealed handgun in any other State that permits  
947 concealed carry.

948           In two recent landmark cases -- District of Columbia  
949 v. Heller and McDonald v. City of Chicago -- the U.S.  
950 Supreme Court has recognized an individual right to bear  
951 arms that stems largely from a right to self-defense. Now,  
952 clearly, this right to self-defense should not be limited to  
953 when you are at home.

954           Numerous studies show a strong connection between  
955 concealed carry laws specifically and a decrease in violent  
956 crime. It appears that criminals have always preferred  
957 unarmed victims.

958           And the NRA has estimated, based on an FBI crime  
959 report data, that right-to-carry States have a 22 percent  
960 lower violent crime rate, 30 percent lower murder rates, and  
961 46 percent lower robbery rates than States that prohibit or  
962 greatly restrict concealed carry.

963           H.R. 822 allows people who are legally permitted or  
964 licensed by a State to carry a concealed handgun to do so  
965 outside of their own State. This is a common sense  
966 extension of what most States already have realized, that

967 concealed weapons in the hands of law-abiding citizens is a  
968 good thing and not a bad thing.

969 My substitute amendment simply clarifies the  
970 underlying bill to make certain that States retain their  
971 ability to determine the eligibility rules regarding whether  
972 their own residents are permitted to carry a concealed  
973 weapon. The amendment also makes clear that State and local  
974 laws regarding the possession and carrying of concealed  
975 weapons remain in place within the State's borders for both  
976 residents and nonresidents alike, just as each State sets  
977 its own traffic laws.

978 Now a majority of the States currently recognize  
979 concealed carry permits from other States. H.R. 822 largely  
980 codifies what the States are already doing on their own. I  
981 cosponsored H.R. 822 along with 17 other members of this  
982 committee, and I would urge all of my colleagues to support  
983 my substitute amendment.

984 And I will yield back. Thank you.

985 Mr. Deutch. Will gentleman yield for a question?

986 Mr. Franks. Yes, Mr. Chairman, I would yield if I  
987 have time.

988 Chairman Smith. The gentleman yields. Who seeks  
989 recognition?

990 Mr. Deutch. I would, for a question, Mr. Chairman.

991 Chairman Smith. The gentleman from Florida seeks, I  
992 think, to ask the gentleman from Arizona a question.

993 Mr. Franks. Mr. Chairman, I yield if the time is  
994 still on the clock.

995 Mr. Deutch. Thank you, Mr. Chairman. And I thank the  
996 gentleman for yielding.

997 I just want to make sure that I understand the  
998 gentleman's amendment correctly. Does the amendment -- does  
999 the amendment address the issue of -- only the issue of who  
1000 is eligible for a concealed carry permit, or does it also  
1001 address the issue of where concealed carry permits can be  
1002 used?

1003 Mr. Franks. Mr. Chairman, the primary thrust of the  
1004 amendment is to allow those who have already obtained legal  
1005 concealed carry weapon permits in their own State to do so  
1006 in other States that have a concealed carry permit provision  
1007 in their own laws.

1008 Maybe I am misunderstanding the question?

1009 Mr. Deutch. Very specifically, the question is this.  
1010 In some States, in my own State in particular -- well, some  
1011 States have chosen to ban guns in courthouses and government  
1012 buildings. Others restrict concealed carry in bars.  
1013 Florida allows guns in government buildings, for example.

1014 Does the amendment strike down those as well, so that  
1015 if one State permits guns, concealed guns in bars, every  
1016 State has to?

1017 Mr. Franks. No. Mr. Chairman, no, they would not.  
1018 In other words, all of those State laws would remain fully  
1019 intact, and the person, even if it was different in his own  
1020 State and for which he had a concealed carry permit, would  
1021 still have to observe if it says -- in Arizona, we have a  
1022 lower crime rate because we have concealed carry permit  
1023 capability. And if in Arizona, you could carry guns, say,  
1024 into a particular place that Chicago wouldn't allow you to  
1025 do that.

1026 Illinois is a bad example. Very bad example. Let us  
1027 say Anchorage, Alaska, wouldn't allow you to do that. Then  
1028 the person in Alaska would have to observe the State and  
1029 local laws that are in place.

1030 Mr. Deutch. What is the difference?

1031 Chairman Smith. The gentleman's time has expired.

1032 The gentleman is yielded an additional 2 minutes.

1033 Mr. Deutch. Thank you, Mr. Chairman.

1034 What is the difference? If our goal here, as stated,  
1035 is to put guns in the hands of law-abiding citizens, and if  
1036 they are allowed to carry concealed weapons in one State,  
1037 they should be allowed to carry them in another, then if  
1038 that is our goal, why shouldn't law-abiding citizens be  
1039 allowed to carry them?

1040 If they are allowed to take them into bars in one  
1041 State, why shouldn't they be allowed to take them into bars  
1042 in every State?

1043 Mr. Franks. Well, this amendment clearly says that  
1044 the State and local laws will remain intact. All it really  
1045 does, all it really does in substance is if I have a  
1046 concealed carry permit in Arizona and I travel to another  
1047 State that has concealed carry permit provision is I don't  
1048 have to also apply for one there as well. But I still have  
1049 to abide by their laws as if I had the concealed carry  
1050 permit in that State.

1051 Mr. Deutch. Thank you.

1052 Chairman Smith. The gentleman's time has expired.

1053 Are there others who wish to be heard on the  
1054 amendment?

1055 Mr. Conyers. Yes, sir.

1056 Chairman Smith. The ranking member, Mr. Conyers?

1057 Mr. Conyers. Thank you, Mr. Chairman.

1058 Could I establish that nobody has a concealed weapon  
1059 on them at this point in time, as we continue this friendly  
1060 discussion?

1061 [Laughter.]

1062 Mr. Conyers. If anyone in the room has a concealed  
1063 weapon, would they kindly raise their hand or give some  
1064 indication so that we will know how to conduct, what level  
1065 of debate we should enter into?

1066 Mr. Franks. Mr. Chairman, just to keep the  
1067 conversation very politely, I refuse to answer the question.

1068 Mr. Conyers. Well, wait a minute. Would you like me  
1069 to yield to you?

1070 Mr. Franks. Please.

1071 Mr. Conyers. Do you have a concealed weapon on you?

1072 Mr. Franks. Just to keep the conversation very  
1073 polite, just to keep it very politely --

1074 Mr. Conyers. I said do you have a concealed weapon on  
1075 you?

1076 Mr. Franks. -- I refuse to answer the question.

1077 Mr. Conyers. Oh, okay. Well, that creates the doubt  
1078 that I was afraid I might get. Could I volunteer what I  
1079 think the answer is and why you are not answering the  
1080 question? Well, I don't want to reveal it. But I think I  
1081 know why you wouldn't want us to know.

1082 Now, look, this is the first time I have seen a  
1083 substitute by the distinguished gentleman Mr. Franks that  
1084 makes the original bill worse. Worse. Or maybe he -- and I  
1085 am sure he thought he was making the bill more to my liking,  
1086 but you failed again, my dear colleague.

1087 This makes the bill worse because on page 2, Section  
1088 (b) reads, and here is the worsening part of this whole  
1089 inane subject, "The possession or carrying of a concealed  
1090 handgun in a State under this section shall be subject to  
1091 the same conditions and limitations" -- here is the kicker -  
1092 - "except as to eligibility to possess or carry imposed by

1093 Federal or State law." In other words, eligibility is no  
1094 longer a requirement.

1095       You don't even have to be eligible to possess or carry  
1096 under the Franks substitute, which now makes it even more  
1097 dangerous, more preposterous, and frankly, I am beginning to  
1098 wonder what people are thinking of these kind of bills  
1099 coming forward from the committee because I have a good  
1100 working relationship with the chairman and the members of  
1101 the committee.

1102       But what we are doing here in the substitute, we carry  
1103 much further than a concealed weapon carry. It applies to  
1104 possession. That means if the gun is nearby or handy or  
1105 close to you, that would be permitted, too.

1106       The substitute also overrides local laws. The  
1107 substitute weakens identification requirements. The  
1108 substitute might allow nonresidents to carry concealed  
1109 weapons where most residents may not.

1110       Now any one of those five points would be enough to  
1111 justify my assertion that this substitute worsens the main  
1112 bill, but the main bill is so bad that how could we be  
1113 arguing about should we make it even worse? And I would

1114 like to yield to Mr. Franks to concede some small part of my  
1115 statement having some accuracy because I don't know if he  
1116 has a concealed weapon on him or not.

1117 Mr. Franks. And I appreciate that, Mr. Conyers.

1118 First of all, I would just suggest that you do have  
1119 to, indeed, be deemed eligible by at least one State and  
1120 have a valid permit in that State for this to even occur.  
1121 And I think an overarching point to keep in mind for all of  
1122 us here is to look at the States who allow already other  
1123 State's residents in other States -- let me say that again.

1124 If you look at States who already allow this, where,  
1125 say, they allow a person coming from another State that has  
1126 a valid permit to carry a concealed weapon, what has been  
1127 the result? The result has not been this cataclysmic  
1128 meltdown that the minority suggests here. The result has  
1129 been a very good one, and all this does is broaden that  
1130 result.

1131 Mr. Conyers. Thank you, Mr. Franks.

1132 You don't know how much better I feel now that you  
1133 have explained that to me.

1134 Mr. Franks. Mr. Conyers, I am so glad to be of

1135 service to you at any time.

1136 Chairman Smith. The gentleman's time has expired.

1137 Mr. Cohen. Mr. Chairman?

1138 Mr. Lungren. Mr. Chairman?

1139 Chairman Smith. The gentleman from Tennessee, Mr.  
1140 Cohen, is recognized.

1141 Mr. Cohen. Thank you, Mr. Chairman.

1142 At one time, I passed many years ago the right-to-  
1143 carry bill in Tennessee and think that people who can shoot  
1144 a target, hit it, don't have a criminal record, submit to  
1145 whatever test they need to, should and are not the problem.  
1146 And they haven't been a problem in Tennessee in general.

1147 This past year in the Tennessee General Assembly, a  
1148 gentleman passed a bill to let people carry guns into bars  
1149 where alcohol is served. I thought that was a bad thing. I  
1150 fought it all the years I was in the legislature and was  
1151 able to keep it from becoming law.

1152 It became law last year, and this gentleman said that  
1153 gun holders don't carry guns where alcohol is involved.  
1154 Tuesday night, he was arrested for DWI with a loaded .38 in  
1155 his car.

1156           The bottom line is no matter what our intentions are  
1157 with these laws, problems will occur. And once you get  
1158 alcohol involved and people should not be around guns, but  
1159 when they can get into situations where they lose proper  
1160 understanding of where they are and what they are doing, you  
1161 have got a real problem. And so, this amendment really  
1162 bothers me, as does the whole idea of overriding States'  
1163 rights.

1164           One thing the Tea Party is right on is that States  
1165 ought to have more sovereignty. And on gun laws, States  
1166 should have sovereignty, and we are taking away the  
1167 sovereignty of the States. This is so antithetical to what  
1168 my friends in the Tea Party would like to see us do in  
1169 respecting our State laws, to say that each State's laws on  
1170 who should get a gun permit are negated when you come from  
1171 another State. The unpleasantries between the States should  
1172 not be encouraged by such legislation.

1173           And I had to take my name off as a sponsor. I am not  
1174 going to be able to vote for the legislation because it is  
1175 just repugnant to my perspective of States' rights. And  
1176 States and the Tea Party on this issue are correct, and I am

1177 voting the Tea Party position for State rights today.

1178 Thank you, sir.

1179 Mr. Lungren. Mr. Chairman? Mr. Chairman?

1180 Chairman Smith. The gentleman from Illinois, Mr.

1181 Quigley, is recognized.

1182 Mr. Quigley. Thank you, Mr. Chairman.

1183 Chairman Smith. Oh, Mr. Quigley, if you will suspend

1184 for a minute? I did not see that the gentleman from

1185 California, Mr. Lungren, had his hand raised.

1186 The gentleman from California is recognized.

1187 Mr. Lungren. Thank you very much.

1188 Mr. Chairman, I support the gentleman's substitute,

1189 but I have overriding concerns about the bill. I have all

1190 my life been a States' rights person. At the same time, I

1191 signed on to the amicus brief in the D.C. case because I

1192 think, clearly, the Supreme Court needed to come to a

1193 determination finally as to what the Second Amendment is in

1194 terms of a right of an individual, as opposed to a person

1195 who is a member of a militia. And this bill, as presented,

1196 brings those two issues into conflict, as far as I can see.

1197 When I was attorney general, I didn't agree with all

1198 the laws I had to enforce. But I enforced them in  
1199 California, including those concerning guns. I tried to  
1200 make some changes. I thought that our State was too  
1201 restrictive.

1202 We have a regimen in the State of California where  
1203 decisions on concealed weapons permits are in the purview of  
1204 the sheriff or the police chief of various jurisdictions  
1205 under minimum standards established by California law.  
1206 During the time when I was attorney general, I recall that  
1207 we had one city that made money by issuing permits to people  
1208 who were not residents of their city, and they did not do a  
1209 very good job of background checks. It was a money maker  
1210 for them. And that bothered me very much. Finally, that  
1211 practice was suspended.

1212 My concern under this bill is that I understand at  
1213 least one State, Utah, allows people to have concealed  
1214 weapons permits even though they are not residents of the  
1215 State of Utah and that there are hundreds of Californians  
1216 that have availed themselves of that opportunity. Now that  
1217 does not allow them to carry in the State of California, but  
1218 it does allow them to carry in the State of Utah.

1219           As I understand the bill, even under the gentleman's  
1220 substitute, people from any State that have some  
1221 restrictions on concealed weapons permits could go or could  
1222 apply to Utah and get a concealed weapon permit without  
1223 being a resident of that State and thereby require their  
1224 home State to allow them to carry even if they didn't meet  
1225 the provisions of their home State.

1226           Now that bothers me because that, it seems to me, is  
1227 in direct contradiction of what those of us who believe in  
1228 States' rights say. And as we try and deal with this  
1229 difficult question of the Second Amendment right, as  
1230 articulated by the Supreme Court, but at the same time  
1231 understand that general police powers have been given to the  
1232 States under our Constitution, I don't see how we have  
1233 resolved that appropriately here.

1234           One question I would address to the gentleman from  
1235 Arizona, if I could get his attention -- Mr. Franks? -- is  
1236 this. I do see what the gentleman's amendment attempts to  
1237 do with respect to the conditions that one has to utilize  
1238 when they are within a State not their own.

1239           My question is this. In my State, and I believe other

1240 States, law enforcement officers have the right to have a  
1241 concealed weapon, even in bars, schools, churches, public  
1242 buildings. That would be considered the most expansive  
1243 legal right-to-carry in a State. Generally speaking,  
1244 everyone else, even if they have a concealed weapon permit,  
1245 are restricted in certain locations.

1246 Under the terms of your substitute, would someone be  
1247 able to make the argument, if they came into my State under  
1248 this, that even though our State does not allow people to  
1249 carry concealed weapons in a school and so forth, law  
1250 enforcement does. Therefore, the State has granted that  
1251 right to some, and under the terms of your bill, even your  
1252 substitute, would my State be required to allow them to  
1253 carry in those areas that we have made a judgment ought not  
1254 to be carried unless you are a law enforcement officer?

1255 I would be happy to yield.

1256 Mr. Franks. If the gentleman would yield? No. The  
1257 amendment, the substitute amendment would not empower  
1258 someone to do that for a couple of reasons.

1259 First of all, that is a factual issue whether or not  
1260 you are a licensed or a law enforcement officer in that

1261 State. Secondly, all of the existing State laws and  
1262 restrictions, whether it is bars or schools or anything like  
1263 that, would remain intact.

1264 And also, I wanted to touch upon --

1265 Mr. Lungren. No, I understand that. But I am trying  
1266 to find out where the language is that suggests that the  
1267 difference or the differential between a law enforcement  
1268 officer and a non-law enforcement officer, both of whom have  
1269 the ability to carry, that that distinction where the law  
1270 enforcement officer has a greater right to carry is not a  
1271 legal basis upon which someone coming into my State would be  
1272 able to carry, where a resident of my State with that would  
1273 not be able to, a non-law enforcement.

1274 Mr. Franks. We are looking --

1275 Mr. Lungren. Look, I am trying to -- I know it is  
1276 hard for you to believe. I am trying to help you out on  
1277 this particular part of it. But I still have the overriding  
1278 concern about States' rights here, and that is a particular  
1279 problem that I have. And if you could help me, I would  
1280 appreciate it.

1281 Mr. Franks. I will try here. I will read page --

1282 Mr. Lungren. And I will be happy to yield back the  
1283 balance of my time while the gentleman attempts to look at  
1284 that.

1285 Mr. Franks. Let me go ahead and read page 2 --

1286 [Pause.]

1287 Mr. Franks. I have two thoughts, Mr. Lungren. First  
1288 of all, where a person can carry as a police officer is  
1289 already a part of the indigenous State law that they are  
1290 from, and this does not affect -- we are talking about  
1291 eligibility for a concealed carry capability in someone  
1292 else's State. We are not talking about overriding the  
1293 restrictions that they have on carrying firearms or any  
1294 special empowerment that they may make for the sake of law  
1295 enforcement officers.

1296 If you look on page 2, line 12. "The possession or  
1297 carrying of a concealed weapon in a State under this section  
1298 shall be subject to the same conditions and limitations" --  
1299 some of those things that you mentioned -- "except as to  
1300 eligibility to possess or carry."

1301 In other words, the only thing that this addresses is  
1302 the eligibility to possess or carry. And as far as the

1303 States' rights argument, I mean, I certainly recognize the  
1304 concerns there. But this is based on the Federal  
1305 Constitution's Second Amendment, which is -- overrides the  
1306 States in this circumstance because we are not talking about  
1307 taking away States' rights that are not already granted to a  
1308 person by the Federal Constitution.

1309           These are rights granted by the Federal Constitution.  
1310 So I think the States' rights argument is not a valid one.

1311           Mr. Lungren. Could I have 2 additional minutes, Mr.  
1312 Chairman?

1313           Chairman Smith. Without objection, the gentleman from  
1314 California is yielded an additional 2 minutes.

1315           Mr. Lungren. Let me just posit this question. What  
1316 if, in a State, it made the determination that -- and this  
1317 may sound strange. But let us say they said that if you  
1318 have had a DUI but otherwise have a good slate, we will  
1319 grant you a concealed weapons permit, but you cannot carry  
1320 that into a bar. But other residents of the State who don't  
1321 have a DUI and are able to have a concealed weapons permit  
1322 could carry it into a bar if that were the law of the State.

1323           And now you come into that State and you have got a

1324 carry permit from another State that doesn't make that  
1325 distinction. Would that distinction apply to you or not?  
1326 In other words, if they have two levels of carry permits,  
1327 would you, therefore, be rendered the most restrictive one,  
1328 or would you be rendered application of the law to the least  
1329 restrictive one?

1330 Mr. Franks. Well, fundamentally, the restrictions of  
1331 a State, how they are written, still apply, except in two  
1332 instances, and that is the eligibility or to possess or to  
1333 carry a handgun.

1334 Mr. Lungren. Okay. Well, that wouldn't go to the  
1335 question of eligibility. Eligibility --

1336 Mr. Franks. And well, I guess it depends exactly on  
1337 how the law is written. If the law says if you have ever  
1338 been -- if the State law says if you have ever been  
1339 convicted of a DUI or something like that, you can't carry.  
1340 I am convinced that that would absolutely prevail under this  
1341 language.

1342 Mr. Lungren. So if my State says if you have had a  
1343 DUI, you cannot carry, period. But another State allows you  
1344 to carry, even with a DUI, and you come into my State, you

1345 would not be able to exercise your right to carry, even  
1346 though in your own State, you would?

1347 Mr. Franks. I believe, Mr. Lungren, that is correct  
1348 because unless the law tried to parse it up and say it  
1349 depends on whether you have a concealed carry permit or not.  
1350 If it simply says that you cannot carry a weapon -- even if  
1351 you have a concealed permit, you cannot carry one into a bar  
1352 because you have had a DUI in the past or you have had an  
1353 alcohol-related incident, that would still apply.

1354 Mr. Lungren. I thank you.

1355 Chairman Smith. The gentleman's time has expired.  
1356 The gentleman from North Carolina, Mr. Watt, is  
1357 recognized.

1358 Mr. Watt. I move to strike the last word.

1359 Chairman Smith. The gentleman is recognized for 5  
1360 minutes.

1361 Mr. Watt. I just want to comment in general that it  
1362 is refreshing that we in this Judiciary Committee are  
1363 finally having some discussion of what States' rights are.  
1364 They seem to be trampled on quite often by the folks who say  
1365 they are champions of it.

1366 I didn't ever hear any response to Mr. Lungren's  
1367 concern, the first concern he raised about whatever State  
1368 that was, Utah, I guess, that allows people who are not  
1369 residents of their State to obtain a concealed weapons  
1370 license in their State. I don't see anything in this bill  
1371 that addresses that.

1372 Mr. Lungren let it go, raised the point. Mr. Lungren,  
1373 did you think you got a response to that, or you just  
1374 decided not to pursue it?

1375 Mr. Lungren. I think I used up my time pursuing the  
1376 other point. No, I still have a concern with that.

1377 Mr. Watt. All right. Okay. Well, then maybe  
1378 somebody -- I don't see anything in this that covers that.  
1379 Because if a California resident gets a license in Utah, it  
1380 seems to me that he can carry that license into California,  
1381 and the fact that he has a license gives him authority to  
1382 carry a concealed weapon in a State from which he has not  
1383 been allowed to obtain a concealed weapon.

1384 So that was the point you were raising, I presume.  
1385 And I never got any response to it, and I don't see anything  
1386 in the bill that addresses that.

1387 Mr. Franks?

1388 Mr. Franks. Well, the bill, if you look on page 2,  
1389 line 4, it says "other than the State of residence of the  
1390 person." In other words, it wouldn't allow you to go out of  
1391 State if you couldn't get one in your own State and then go  
1392 out of State and get one and then come back and have a  
1393 concealed carry in your own State.

1394 You couldn't do that under the bill. And that would  
1395 be page 2, line 4.

1396 Mr. Watt. Okay. I will take a closer look at that.  
1397 I am not sure that covers that, but I will take a closer  
1398 look at it.

1399 I think we are opening up some territory here that  
1400 really presents some serious concerns, and I am going to  
1401 vote against this bill.

1402 With that, I will yield the balance of my time to Mr.  
1403 Conyers.

1404 Mr. Conyers. Thank you.

1405 I think the former attorney general of California has,  
1406 through his previous experience has some genuine concerns  
1407 about this measure.

1408           Now, Mr. Lungren, you will note that the reason that I  
1409 suggested the substitute was worse than the bill was for the  
1410 same reason that Mr. Franks explained to you that it wasn't  
1411 so bad after all. He cited page 2, line 14. You will note  
1412 that that is exactly what I cited, "except as to eligibility  
1413 to possess or carry." Except. E-X-C-E-P-T.

1414           So that means that the formerly ineligible would now  
1415 be okay. And for him to cite that back to you, to me,  
1416 proves exactly what my -- why I am asserting that if you are  
1417 disturbed about the bill itself, the substitute takes it  
1418 back one more step.

1419           Mr. Franks. If the gentleman would yield?

1420           Mr. Conyers. I don't have the time.

1421           Chairman Smith. The gentleman from North Carolina has  
1422 the time.

1423           Mr. Watt. I will yield to the gentleman if the  
1424 chairman -- if Mr. Conyers is finished making his point, I  
1425 am happy to yield to the gentleman, Mr. Franks.

1426           Mr. Franks. Thank you for yielding.

1427           The reason "the except as to eligibility to possess or  
1428 carry" is put in that context is because we are trying to

1429 say very clearly here that the possession or carrying of a  
1430 concealed weapon in a State under this section shall be  
1431 subject to all of the same conditions, all of the same laws  
1432 in that State. The only thing this affects would be your  
1433 eligibility for a concealed carry permit.

1434 And that is why that is excepted out in order to make  
1435 it clear that the only thing we are trying to do here is to  
1436 allow reciprocity or to say that States that have a permit  
1437 process have to accept another person's permit as well. But  
1438 they still have to abide by all the same conditions and laws  
1439 in that State. And the idea of excepting it out like that  
1440 where you clearly pointed out is to make it clear to that  
1441 point.

1442 Mr. Scott. Mr. Chairman? Mr. Chairman?

1443 Mr. Franks. Thank you.

1444 Chairman Smith. The gentleman's time has expired.

1445 The gentleman from Florida has been very patient. I  
1446 would like to recognize him next.

1447 The gentleman from Florida, Mr. Deutch, is recognized.

1448 Mr. Deutch. Mr. Chairman, I appreciate that, and I  
1449 appreciate my colleagues' indulgence.

1450 I would like to put this whole debate in some  
1451 perspective. I would like to talk about what actually would  
1452 happen in a place like Florida, where I live.

1453 In Florida, since 1987, there has been a law on the  
1454 books that says that only the State can regulate firearms.  
1455 As a result of that, local governments, cities and counties,  
1456 are not able to impose any restrictions. But there were no  
1457 teeth to the bill.

1458 The legislature just added some teeth, up to \$5,000  
1459 personal fines for local officials who vote to support these  
1460 restrictions and possible removal from office. As a result,  
1461 local leaders from throughout the State have scoured the  
1462 codes and, as a result, have removed all prohibitions on  
1463 carrying firearms in public buildings, in parks, on beaches,  
1464 at campgrounds, in childcare centers. All of those  
1465 restrictions were repealed in order to comply with State  
1466 law.

1467 If I understand correctly, if this bill were to pass,  
1468 then all of those places -- the public buildings, the parks,  
1469 the beaches -- which we have said, which the State  
1470 legislature in Florida has said cities can't impose

1471 restrictions, all of them would then be open to anyone from  
1472 across America with a concealed weapons permit. That is one  
1473 concern, and it is a very real concern.

1474         The second issue is this, and this is for everyone  
1475 else to think about. We can have discussions about  
1476 eligibility requirements, and as long as eligibility  
1477 requirements were met, that is sufficient in order for  
1478 someone to be able to carry across State lines if this were  
1479 to pass.

1480         But you actually have to look at how these permits are  
1481 issued. In Florida, according to a recent study in one of  
1482 my local newspapers, Florida gave concealed carry permits to  
1483 more than 1,400 people who pleaded guilty or no contest to  
1484 felonies such as burglaries, sexual battery, child  
1485 molestation; 216 people with outstanding warrants; 128  
1486 people with active domestic violence injunctions; and 6  
1487 registered sex offenders.

1488         I just would like my colleagues to understand that  
1489 were this bill to become law, those six registered sex  
1490 offenders in possession of concealed carry permits in  
1491 Florida could freely travel to your State with their guns in

1492 tow and concealed.

1493 Mr. Chairman, there are lots of discussions we can  
1494 have about Second Amendment rights. Clearly, restrictions  
1495 on the Second Amendment are acceptable. We have heard this  
1496 back and forth on those restrictions that States can impose.  
1497 It is just important to put this in a broader context of  
1498 what is actually happening out in the real world and what  
1499 this would mean for all of us and, more importantly, for the  
1500 citizens that we represent.

1501 I oppose this bill, and I yield back.

1502 Chairman Smith. The gentleman yields back.

1503 Are there other Members who wish to be heard on the  
1504 substitute amendment? The gentleman from Virginia, Mr.  
1505 Scott?

1506 Mr. Scott. Thank you, Mr. Chairman.

1507 As the gentleman has said, you can be ineligible in  
1508 your own State to get a permit, go to another State that has  
1509 more liberal rules and use that permit anywhere in the  
1510 country except your own State. You can't go back to your  
1511 home State and use it, but you could use it anywhere else so  
1512 long as you are not prohibited by Federal law from getting

1513 it. If you are prohibited by State law from getting it, you  
1514 can go to another State.

1515 Now we are kind of back and forth evidence as to  
1516 whether or not you could get a permit without actually  
1517 showing up. There was some suggestion that some States you  
1518 can just go on the Internet and get a concealed weapons  
1519 permit with never even showing up. But the point is that  
1520 you can have the lowest common denominator, people are going  
1521 to find out which State has the most liberal, lax  
1522 requirements for getting a permit, and everybody is going to  
1523 go to that State. And they will be able to use that permit  
1524 anywhere in the country except their home State.

1525 They could be ineligible in your home State. You can  
1526 be ineligible in the State that you are going to so long as  
1527 the ineligibility is under State law, not Federal law. If  
1528 you are ineligible under Federal law, you can't get it  
1529 anywhere. But if you are ineligible in Maryland to get a  
1530 license, as a Virginia resident, I could go somewhere where  
1531 I could get one, and then go use that permit in Maryland,  
1532 notwithstanding the fact that I was ineligible in Maryland  
1533 and ineligible in my home State to get it.

1534           This is just opening it up. The law enforcement has  
1535 suggested all kinds of problems because when they arrest  
1536 somebody, they don't know whether they were legally carrying  
1537 the firearm or not. They have got to produce some ID, and  
1538 you don't know what they have got.

1539           This is extremely problematic, and I would hope we  
1540 would just defeat the bill. And --

1541           Mr. Conyers. Would the chairman yield?

1542           Mr. Scott. I yield.

1543           Mr. Conyers. Thank you, sir.

1544           I would like to invite the only law enforcement member  
1545 of this committee whether or not you are correct that it  
1546 would be virtually impossible to stop someone and check what  
1547 the laws were in the State of the person with the license or  
1548 whether it is valid or not. How could you tell?

1549           Mr. Scott. I will yield to the gentlelady from  
1550 Florida.

1551           Mrs. Adams. Thank you.

1552           Well, I can tell you this much, that you can also run  
1553 a check to see if any information, documentation is accurate  
1554 and honest that they produce. And one thing is for certain.

1555 It doesn't matter what kind of concealed weapon permit you  
1556 have, if you are a felon and you are in possession of that  
1557 firearm, you are going to go to jail.

1558 I yield back.

1559 Mr. Conyers. Would the gentleman yield further?

1560 Mr. Scott. I will yield.

1561 Mr. Conyers. There is no database on concealed  
1562 weapons. So you can't run a check on it. That is  
1563 impossible.

1564 Mr. Scott. I yield back.

1565 Chairman Smith. The gentleman yields back his time.  
1566 The gentleman from Tennessee, Mr. Cohen?

1567 Mr. Cohen. Thank you, Mr. Chairman.

1568 The debate we are having here is the way you make  
1569 legislation. You discuss and you amend, then you come up  
1570 with what you think. You fine-tune your law to what you  
1571 think it should be.

1572 The States have done this on all their concealed carry  
1573 bills. I did it on the concealed carry bill in Tennessee.

1574 And we debated should you allow somebody to get a gun if  
1575 they have been institutionalized in a mental hospital?

1576 Should you allow it to be if a person has had a DWI in the  
1577 past? Should you allow it if they have had a domestic  
1578 violence charge? These are issues each State legislature  
1579 should and most do consider.

1580 Now when you put a restriction on one of those because  
1581 you want to have a higher level of security, knowing the  
1582 people who have the weapons are least likely to use them in  
1583 your State on your citizens, but you pass this law, you are  
1584 allowing people from other States to have more leeway in  
1585 your State than your own citizens do. That just makes no  
1586 sense, Mr. Chairman.

1587 What we are saying is the discussions in the 50 State  
1588 legislatures don't matter. They can be trumped by the  
1589 discussions in another State legislature, and you could have  
1590 somebody come from a State who has had a DWI, who has had a  
1591 domestic violence charge, who has been institutionalized,  
1592 who has been under psychiatric care, who has had a drug  
1593 problem.

1594 You know, these people could have talked to each other  
1595 about buying some type of drug in some foreign country, and  
1596 you are letting them get a gun and go to a different State.

1597 This is inconsistent.

1598           It is violative of everything that people who believe  
1599 in the 50 borders as not being just lines on a map, but  
1600 being a significant demarcation of authority, vested with  
1601 special powers by the United States Constitution and our  
1602 Founding Fathers that they have to draw laws that would not  
1603 be more liberal for those that live outside their  
1604 jurisdiction than those that live within the jurisdiction.

1605           And I yield back the balance of my time.

1606           Chairman Smith. Thank you, Mr. Cohen.

1607           The gentleman from North Carolina, Mr. Coble, is  
1608 recognize.

1609           Mr. Coble. Thank you, Mr. Chairman.

1610           I yield to the gentleman from Arizona.

1611           Mr. Franks. And I thank the gentleman for yielding.

1612           Let me just address a couple of things. Related to  
1613 Mr. Cohen's comments, Tennessee is one of those States that  
1614 has outright recognition. It recognizes all valid permits  
1615 issued by any State. And I understand you were sort of a  
1616 champion of that at one time. And so, the effect it would  
1617 have on Tennessee will be essentially nil.

1618           That is also true of the gentleman from Florida.  
1619 Florida has a true reciprocity law on their books already.  
1620 And as far as felons going into daycare centers and things,  
1621 that is already against Federal law. It is already against  
1622 Federal law for someone to be carrying a weapon if they are  
1623 a felon.

1624           And I would just suggest if Florida is not dealing  
1625 with its local jurisdictions or if the State law in Florida  
1626 is incorrect, then that is really an issue for Florida to  
1627 deal with. But once again, in most of the States that we  
1628 are talking about, this is essentially a nonissue because 40  
1629 States recognize some sort of reciprocity, some sort of  
1630 recognizing other States' concealed carry permits, much like  
1631 we do, as it is oft stated, driver's licenses.

1632           There are all kinds of different traffic laws, all  
1633 kinds of different State laws for the highways, and you have  
1634 to recognize that when you go in a State, but you don't have  
1635 to get a new driver's license when you go into another  
1636 State. And that is essentially the issue here.

1637           And with that, Mr. Chairman, I would thank Mr. Coble  
1638 and yield back.

1639 Mr. Coble. I reclaim and yield to the gentleman from  
1640 California.

1641 Mr. Lungren. If I can just ask the gentleman from  
1642 Arizona? After hearing the gentleman from Tennessee  
1643 actually look at the other side of it, I think what you said  
1644 about page 2, line 4 is correct. So that someone from  
1645 California who gets a carry permit from Utah could not then  
1646 use it in California because you have page 2, section 4.

1647 But the gentleman from Tennessee is right that someone  
1648 from Utah who wouldn't qualify in California for a carry  
1649 permit could come into the State and use it. So, in a  
1650 sense, he is a correct that they have a stronger right than  
1651 a California resident.

1652 Let me just ask you -- that clears up one part of my  
1653 concern. The other part of my concern is States essentially  
1654 giving out permits to people not residents of their States.  
1655 In other words, they have no real sense of responsibility to  
1656 those folks.

1657 Would the gentleman entertain an amendment that would  
1658 say on line 18 of page 1 that the "valid license or permit  
1659 which is issued pursuant to the law of a State to a resident

1660 of the State and which permits"?

1661           So at least we get away from the concern some of us  
1662 have of another jurisdiction being able to extend rights to  
1663 someone that they may not have a full connection with?

1664 Would the gentleman entertain that?

1665           Mr. Franks. Mr. Lungren, I think your idea is  
1666 intriguing, and I think it is something that we should talk  
1667 about going forward here.

1668           Mr. Lungren. You sound like some of the people I  
1669 dated.

1670           [Laughter.]

1671           Mr. Franks. I assure you --

1672           Chairman Smith. If the gentleman from North Carolina  
1673 will --

1674           Mr. Franks. I yield back.

1675           Chairman Smith. Let me say to the gentleman from  
1676 California we are now getting into the time of amendments to  
1677 the amendment. We have so many that the gentleman from  
1678 California will have ample time to either write the  
1679 amendment or discuss it further with Mr. Franks.

1680           Are there any amendments to the amendment?

1681 Mr. Conyers. I have an amendment.

1682 Chairman Smith. The gentleman from Michigan, Mr.  
1683 Conyers, is recognized for the purpose of offering an  
1684 amendment.

1685 Mr. Conyers. I call up the amendment.

1686 Chairman Smith. The clerk will report Mr. Conyers's  
1687 amendment to the amendment.

1688 Ms. Kish. Amendment to the amendment in the nature of  
1689 a substitute to H.R. 822, offered by Mr. Conyers of  
1690 Michigan. Page 2 --

1691 Chairman Smith. Without objection, the amendment to  
1692 the amendment will be considered as read.

1693 [The information follows:]

1694

1695 Chairman Smith. And the gentleman is recognized to  
1696 explain the amendment.

1697 Mr. Conyers. Thank you, Mr. Chairman.

1698 Members of the committee, this amendment is necessary  
1699 to address one of the main issues of the bill as underscored  
1700 by the substitute amendment, the fact that it would override  
1701 State determinations as to who is fit to carry concealed  
1702 weapons within their border. It strikes the language in the  
1703 substitute amendment exempting the bill's concealed carry  
1704 reciprocity scheme from State laws governing the eligibility  
1705 to possess or carry concealed handguns.

1706 Now many tout States' rights and urge and argue that  
1707 we shouldn't overrule State laws and policies that have been  
1708 adopted by citizens of the State, and I agree with that.  
1709 However, the fatal flaw in the bill is that it would  
1710 override determinations made by State and local governments  
1711 as to who is eligible to possess or carry concealed handguns  
1712 within their borders.

1713 I posit this simple position. We must not infringe  
1714 the rights of States to protect their citizens. Every State  
1715 and locality is in the best position to determine what is

1716 best and in the interest of public safety, based on the  
1717 needs and circumstances in their communities.

1718 For example, 38 States prohibit people convicted of  
1719 certain violent crimes -- assault, sex crimes -- from  
1720 carrying concealed guns. We should not overrule their State  
1721 laws and policies, which have been adopted by citizens of  
1722 those States to protect themselves from gun violence.

1723 Some States enter into reciprocity agreements with  
1724 other States if they mutually decide to recognize each  
1725 other's concealed carry permits, but we should not impose  
1726 this on them. In other words, States are free to recognize  
1727 or not recognize through reciprocal agreements.

1728 But here is the classic example and that I think this  
1729 may have been what the gentleman from California was getting  
1730 at. Nevada decided to cancel its reciprocity agreement with  
1731 Utah. Why should Congress, why should we here in this  
1732 committee overrule that judgment? I say that we can't and  
1733 that we shouldn't.

1734 And so, I hope that we support my amendment. And I  
1735 yield back my time.

1736 Chairman Smith. Thank you, Mr. Conyers.

1737 The gentleman from Arizona, Mr. Franks, is recognized.

1738 Mr. Franks. Yes, thank you, Mr. Chairman.

1739 Mr. Chairman, I would respectfully oppose the  
1740 gentleman's amendment. I guess if I could yield to the  
1741 gentleman for one moment, if your amendment were to be  
1742 adopted, what would be left of this bill? Would there be  
1743 anything left of it?

1744 Mr. Conyers. Well, you get the title still. You  
1745 would have a National Right-to-Carry Reciprocity Act of  
1746 2011, H.R. 822.

1747 [Laughter.]

1748 Mr. Franks. And I thank the gentleman for that very  
1749 accurate response.

1750 Mr. Chairman, the way the amendment is written, as you  
1751 notice on page 2, line 14, this bill completely recognizes  
1752 all of the conditions and limitations and legal requirements  
1753 in any State, except to these two words that the gentleman  
1754 has in his amendment, "eligibility to possess or carry." So  
1755 the amendment completely guts the bill. It completely takes  
1756 the bill in a different direction.

1757 As far as the gentleman's comment about not overruling

1758 sex criminals, I don't know how to stress strongly enough  
1759 that the only thing we are doing here is allowing States  
1760 that have a concealed carry permit process, if a person has  
1761 a permit like that, that they then have that permit in other  
1762 States. But it is completely subject to all of the existing  
1763 laws in that State.

1764 Again, much like driver's licenses. If Nevada said  
1765 today, we are not going to recognize someone driving in here  
1766 from Utah with Utah driver's license, I don't know. That  
1767 would be something that would be an interesting discussion.

1768 Mr. Conyers. Would my friend yield?

1769 Mr. Franks. Yes, sir. I will yield.

1770 Mr. Conyers. Thank you.

1771 As I pointed out with the law enforcement officer on  
1772 the committee, there is no database on concealed weapons.  
1773 You can't stop somebody and check whether this is a  
1774 provision in a law other than the State that they are in.

1775 Mr. Franks. Well, reclaiming my time. With all due  
1776 respect, if you are in a State and you have a -- you are in  
1777 Texas and you have a Texas concealed carry permit, that  
1778 would be the same thing. They would have to check and see

1779 if that was a valid permit, which could be done in the  
1780 process if they found you had a permit in another State.

1781 Mrs. Adams. Would the gentleman yield?

1782 Mr. Franks. Yes, I would yield.

1783 Mrs. Adams. Well, as I was trying to say earlier,  
1784 there is a database in each State, and the law enforcement  
1785 officers are able to access their databases on concealed  
1786 weapons permit. And so, I would disagree with that  
1787 statement you made.

1788 Mr. Franks. It is better that she respectfully  
1789 disagrees rather than disrespectfully agrees, I think.

1790 Mrs. Adams. I respectfully disagree with my esteemed  
1791 colleague.

1792 Mr. Conyers. Yes, but there is no national database.

1793 Mrs. Adams. No, there is not. But if a law  
1794 enforcement officer makes a stop, then that law enforcement  
1795 officer will go to their -- whether it is an MDT, the mobile  
1796 data computer that is in their cars or whether they have to  
1797 call it in through teletype, they have the ability to reach  
1798 out to that State and query their system, law enforcement to  
1799 law enforcement.

1800 I yield back my time.

1801 Mr. Franks. Mr. Chairman? Mr. Chairman, let me just  
1802 continue here, and then I am done.

1803 The gentleman's comment about the States having the  
1804 right to protect their citizens I completely embrace. In  
1805 fact, that is what this bill is designed to try to do.

1806 There are 40 States that believe it is in the best  
1807 interest of their own State to have reciprocity. So if one  
1808 of their citizens that has a valid concealed carry permit,  
1809 based on the idea of being able to defend themselves, goes  
1810 to another State, that they can do so in that State. And  
1811 they believe that it is a wise overall policy for them to  
1812 accept those permits from other States if those States  
1813 accept them from this.

1814 And this would make that process uniform. And I just  
1815 don't want to get too far out on the fringes here. The  
1816 basic issue we are trying to do is to see what is already  
1817 happening in 40 States be something that can happen in all  
1818 of them.

1819 And with that, I yield back.

1820 Chairman Smith. Thank you, Mr. Franks.

1821           The question is on the amendment to the amendment.

1822 All in favor, say aye.

1823           [A chorus of ayes.]

1824           Chairman Smith. Opposed, no.

1825           [A chorus of nays.]

1826           Chairman Smith. Opposed, no.

1827           [A chorus of nays.]

1828           Chairman Smith. In the opinion of the chair, the nays

1829 have it, and the amendment is not agreed to.

1830           Mr. Conyers. Record vote, please?

1831           Chairman Smith. A recorded vote has been requested,

1832 and the clerk will call the roll.

1833           Ms. Kish. Mr. Smith?

1834           Chairman Smith. No.

1835           Ms. Kish. Mr. Smith votes no.

1836           Mr. Sensenbrenner?

1837           [No response.]

1838           Ms. Kish. Mr. Coble?

1839           Mr. Coble. No.

1840           Ms. Kish. Mr. Coble votes no.

1841           Mr. Gallegly?

1842 [No response.]

1843 Ms. Kish. Mr. Goodlatte?

1844 Mr. Goodlatte. No.

1845 Ms. Kish. Mr. Goodlatte votes no.

1846 Mr. Lungren?

1847 Mr. Lungren. No.

1848 Ms. Kish. Mr. Lungren votes no.

1849 Mr. Chabot?

1850 Mr. Chabot. No.

1851 Ms. Kish. Mr. Chabot votes no.

1852 Mr. Issa?

1853 [No response.]

1854 Ms. Kish. Mr. Pence?

1855 [No response.]

1856 Ms. Kish. Mr. Forbes?

1857 Mr. Forbes. No.

1858 Ms. Kish. Mr. Forbes votes no.

1859 Mr. King?

1860 Mr. King. No.

1861 Ms. Kish. Mr. King votes no.

1862 Mr. Franks?

1863 Mr. Franks. No.

1864 Ms. Kish. Mr. Franks votes no.

1865 Mr. Gohmert?

1866 Mr. Gohmert. No.

1867 Ms. Kish. Mr. Gohmert votes no.

1868 Mr. Jordan?

1869 Mr. Jordan. No.

1870 Ms. Kish. Mr. Jordan votes no.

1871 Mr. Poe?

1872 Mr. Poe. No.

1873 Ms. Kish. Mr. Poe votes no.

1874 Mr. Chaffetz?

1875 Mr. Chaffetz. No.

1876 Ms. Kish. Mr. Chaffetz votes no.

1877 Mr. Griffin?

1878 Mr. Griffin. No.

1879 Ms. Kish. Mr. Griffin votes no.

1880 Mr. Marino?

1881 Mr. Marino. No.

1882 Ms. Kish. Mr. Marino votes no.

1883 Mr. Gowdy?

1884 Mr. Gowdy. No.

1885 Ms. Kish. Mr. Gowdy votes no.

1886 Mr. Ross?

1887 [No response.]

1888 Ms. Kish. Mrs. Adams?

1889 Mrs. Adams. No.

1890 Ms. Kish. Mrs. Adams votes no.

1891 Mr. Quayle?

1892 Mr. Quayle. No.

1893 Ms. Kish. Mr. Quayle votes no.

1894 Mr. Amodei?

1895 [No response.]

1896 Ms. Kish. Mr. Conyers?

1897 Mr. Conyers. Aye.

1898 Ms. Kish. Mr. Conyers votes aye.

1899 Mr. Berman?

1900 [No response.]

1901 Ms. Kish. Mr. Nadler?

1902 Mr. Nadler. Aye.

1903 Ms. Kish. Mr. Nadler votes aye.

1904 Mr. Scott?

1905 Mr. Scott. Aye.

1906 Ms. Kish. Mr. Scott votes aye.

1907 Mr. Watt?

1908 Mr. Watt. Aye.

1909 Ms. Kish. Mr. Watt votes aye.

1910 Ms. Lofgren?

1911 Ms. Lofgren. Aye.

1912 Ms. Kish. Ms. Lofgren votes aye.

1913 Ms. Jackson Lee?

1914 Ms. Jackson Lee. Aye.

1915 Ms. Kish. Ms. Jackson Lee votes aye.

1916 Ms. Waters?

1917 Ms. Waters. Aye.

1918 Ms. Kish. Ms. Waters votes aye.

1919 Mr. Cohen?

1920 Mr. Cohen. Aye.

1921 Ms. Kish. Mr. Cohen votes aye.

1922 Mr. Johnson?

1923 Mr. Johnson. Aye.

1924 Ms. Kish. Mr. Johnson votes aye.

1925 Mr. Pierluisi?

1926 Mr. Pierluisi. Aye.

1927 Ms. Kish. Mr. Pierluisi votes aye.

1928 Mr. Quigley?

1929 [No response.]

1930 Ms. Kish. Ms. Chu?

1931 Ms. Chu. Aye.

1932 Ms. Kish. Ms. Chu votes aye.

1933 Mr. Deutch?

1934 [No response.]

1935 Ms. Kish. Ms. Sanchez?

1936 [No response.]

1937 Ms. Kish. Mr. Gallegly?

1938 Mr. Gallegly. No.

1939 Ms. Kish. Mr. Gallegly votes no.

1940 Mr. Berman?

1941 Mr. Berman. Aye.

1942 Ms. Kish. Mr. Berman votes aye.

1943 [Pause.]

1944 Chairman Smith. Other there other Members who wish to

1945 be recorded?

1946 [No response.]

1947 Chairman Smith. The clerk will report.

1948 Ms. Kish. Mr. Chairman, 12 Members voted aye; 18

1949 Members voted nay.

1950 Chairman Smith. A majority having voted against the

1951 amendment, the amendment is not agreed to.

1952 Let me say to Members that we are going to take a

1953 lunch break now. We expect votes as early as 1:15 p.m. So

1954 we will recess until after the last vote, which we expect to

1955 occur about 2:15 p.m. So I would expect us to reconvene

1956 about 2:15 this afternoon and resume consideration of the

1957 amendments to the amendment.

1958 Until then, we stand in recess.

1959 Mr. Scott. Mr. Chairman? Is that last vote of the

1960 day or last vote of the series?

1961 Chairman Smith. If it wasn't clear, we are going to

1962 resume our markup after the last vote in the series, about

1963 2:15 p.m. We will work until 4:00 p.m. and then adjourn for

1964 the day.

1965 [Whereupon, at 11:59 a.m., the committee recessed, to

1966 reconvene at 2:28 p.m., the same day.]

1967 Chairman Smith. [Presiding] The Judiciary Committee

1968 will resume its markup. And the clerk will call the roll?

1969 Ms. Kish. Mr. Smith?

1970 Chairman Smith. Present.

1971 Ms. Kish. Mr. Sensenbrenner?

1972 Mr. Coble?

1973 Mr. Gallegly?

1974 Mr. Goodlatte?

1975 Mr. Lungren?

1976 Mr. Chabot?

1977 Mr. Issa?

1978 Mr. Pence?

1979 Mr. Pence. Here.

1980 Ms. Kish. Mr. Forbes?

1981 Mr. Forbes. Here.

1982 Ms. Kish. Mr. King?

1983 Mr. Franks?

1984 Mr. Franks. Here.

1985 Ms. Kish. Mr. Gohmert?

1986 Mr. Gohmert. Here.

1987 Ms. Kish. Mr. Jordan?

1988 Mr. Poe?

1989 Mr. Poe. Present.

1990 Ms. Kish. Mr. Chaffetz?

1991 Mr. Griffin?

1992 Mr. Marino?

1993 Mr. Gowdy?

1994 Mr. Ross?

1995 Ms. Adams?

1996 Mr. Quayle?

1997 Mr. Amodei?

1998 Mr. Conyers?

1999 Mr. Berman?

2000 Mr. Nadler?

2001 Mr. Nadler. Here.

2002 Ms. Kish. Mr. Scott?

2003 Mr. Scott. Present.

2004 Ms. Kish. Mr. Watt?

2005 Ms. Lofgren?

2006 Ms. Lofgren. Here.

2007 Ms. Kish. Ms. Jackson Lee?

2008 Ms. Waters?

2009 Mr. Cohen?

2010 Mr. Johnson?

2011 Mr. Pierluisi?

2012 Mr. Quigley?

2013 Mr. Quigley. Here.

2014 Ms. Kish. Ms. Chu?

2015 Mr. Deutch?

2016 Ms. Sanchez?

2017 Ms. Adams?

2018 Ms. Adams. Here.

2019 Ms. Kish. Mr. King?

2020 Mr. King. Here.

2021 Ms. Kish. Mr. Cohen?

2022 Mr. Cohen. Here.

2023 Chairman Smith. I think the way was equivalent to a

2024 present.

2025 Are there other members who wish to record their

2026 presence?

2027 Ms. Kish. Mr. Conyers?

2028 Mr. Conyers. Present.

2029 Ms. Kish. Mr. Amodei?

2030 Mr. Amodei. Present.

2031 Mr. Kish. Mr. Lungren?

2032 Mr. Lungren. Here.

2033 Chairman Smith. A working quorum being present, we  
2034 will proceed with the mark up of H.R. 822. Are there any  
2035 other amendments to the amendment? The gentleman from  
2036 Texas, Mr. Gohmert, is recognized?

2037 Mr. Gohmert. Thank you, Mr. Chairman. I have an  
2038 amendment at the desk.

2039 Chairman Smith. The clerk will report the amendment?

2040 Ms. Kish. Amendment to the amendment in the nature of  
2041 a substitute to H.R. 822 offered by Mr. Gohmert --

2042 Chairman Smith. Without objection, the amendment to  
2043 the amendment is considered as read.

2044 [The information follows:]

2045

2046 Chairman Smith. And the gentleman from Texas is  
2047 recognized to explain the amendment?

2048 Mr. Gohmert. Thank you, Mr. Chairman.

2049 I share my friend, Mr. Lungren's, concerns about  
2050 states' rights, as I know many have here on both sides of  
2051 the aisle. And I did like the findings that were in the  
2052 original bill. I found those helpful, but they are  
2053 eliminated in the substitution. And as a former appellate  
2054 judge, I know judges are more likely to look at findings in  
2055 a bill than they are to look at committee reports. So, I  
2056 would commend those for the future for use by the committee  
2057 instead of being eliminated.

2058 But the Constitution created the district that would  
2059 be the Nation's capital. It provided for it. It  
2060 anticipated that the governing body of such capital district  
2061 would be under Congress, that Congress would be in charge of  
2062 such body. Congress saw fit, after the creation of the  
2063 District of Columbia, to create a sub-governing body to  
2064 Congress to handle the issues of government within the  
2065 District of Columbia.

2066 The District of Columbia violated the constitutional

2067 rights of citizens to keep and bear arms. The Supreme Court  
2068 of the United States so found. The governing body that is a  
2069 sub-body to this one, created, and subject to this body, has  
2070 apparently rewritten the rules that still, I know they  
2071 believe, comply with the Supreme Court's decision in *Heller*.  
2072 Yet they appear to me to still deprive people of their 2nd  
2073 Amendment rights, and it should not be that simply by being  
2074 in our Nation's capital, people should have to forfeit their  
2075 rights under the Constitution.

2076 Now, I am sensitive to those who have said, and still  
2077 say appropriately, that taxation without representation is  
2078 tyranny. That was Ben Franklin that also shared that  
2079 sentiment, and when you review the history, you will find it  
2080 is a legitimate sentiment in the original revolution, and it  
2081 is today. And that is why in the Congress, I filed and I am  
2082 in the process of preparing the updated version of two bills  
2083 to deal with that issue.

2084 One would allow the citizen of the District of  
2085 Columbia to be treated like the citizens of every other U.S.  
2086 territory, but does not have a full voting member of that  
2087 territory. And that is, they do not pay Federal income

2088 taxes. That way it is not tyranny because they do not get  
2089 taxed. That seems imminently fair, and I hope that sometime  
2090 during the process of this Congress, that we can bring that  
2091 forward.

2092         The other alternative constitutionally without  
2093 creating an amendment is to do what was done in the 1840s  
2094 when people across the Potomac demanded to be seceded back  
2095 to Virginia because the Federal government was not using it.  
2096 It was ceded back.

2097         So, I have another bill. If the residents of D.C.  
2098 would prefer that, we can draw meets and bounds lines of  
2099 distinction around the Federal enclave and cede everything  
2100 back to Maryland so they can elect senators and  
2101 representatives.

2102         In the meantime, I think it is our constitutional  
2103 obligation to ensure that constitutional right, particularly  
2104 2nd Amendment, are not abridged here in the District of  
2105 Columbia. I know after our friend, Representative Giffords,  
2106 was shot, there were members of Congress who were demanding  
2107 security details for each one of us. I think that is  
2108 completely unnecessary.

2109           This bill will simply allow anyone who gets a permit  
2110 or license in any State and is not prohibited under Federal  
2111 law from having the right to bear arms, concealed weapons,  
2112 that you will be able to carry in the District of Columbia,  
2113 not in the Capitol, not on the House floor, but around the  
2114 District of Columbia. And I think we will see a dramatic  
2115 drop in crime, and we will do a great service to the people  
2116 here.

2117           So, it is not just the outlaws that have guns because  
2118 guns are outlawed to law abiding citizens. That is the  
2119 point of my amendment. It is very brief, but it does this  
2120 in a very short, but effective way.

2121           With that, I yield back.

2122           Ms. Jackson Lee. Mr. Chairman?

2123           Chairman Smith. Thank you, Mr. Gohmert.

2124           I am going to recognize myself to express a concern  
2125 about this amendment.

2126           This amendment offered by my friend from Texas  
2127 requires the District of Columbia, which currently does not  
2128 permit the carrying of concealed firearms, to now permit  
2129 non-residents to carry concealed weapons in the District. I

2130 am concerned that this amendment goes beyond the scope and  
2131 intent of the underlying bill.

2132 H.R. 822 in no way requires States to adopt concealed  
2133 carry laws. It respects States' rights to determine whether  
2134 their residents should be allowed to carry concealed  
2135 firearms. If a State such as Illinois has chosen not to  
2136 allow concealed carry permits, the bill does not require  
2137 Illinois to recognize the concealed carry permits of another  
2138 State.

2139 By requiring the District of Columbia, a jurisdiction  
2140 that does not currently allow any concealed carry permit, to  
2141 recognize the concealed carry permits of non-residents, it  
2142 is at odds with an important tenant of this bill. The role  
2143 of D.C. as a Federal city has been the subject of robust  
2144 debate in this committee and in the House of Representatives  
2145 in recent years.

2146 I have supported congressional efforts to overturn  
2147 D.C.'s restrictive gun laws in the past, and I will continue  
2148 to do so on an appropriate legislative vehicle. I believe  
2149 this is a debate best saved for another day and another  
2150 bill.

2151           The gentleman from Texas may well be right on the  
2152 merits, but I just do not think this is the right time to  
2153 pursue that particular objective. There is an old saying  
2154 that the right thing at the wrong time is no longer the  
2155 right thing. I think that that saying applies today.

2156           I look forward to working with Mr. Gohmert and my  
2157 other colleagues on this issue in the future. But for the  
2158 time being, I am going to need to oppose this amendment.

2159           Mr. Gohmert. Mr. Chairman?

2160           Chairman Smith. I will yield back the balance of my  
2161 time, and recognize the gentleman from Michigan, the ranking  
2162 member, Mr. Conyers?

2163           Mr. Conyers. Thank you, Mr. Chairman.

2164           I would like to ask our friend, Judge Gohmert, if he  
2165 is familiar with Section 3 of the \_\_\_\_ opinion.

2166           Mr. Gohmert. Chairman -- former Chairman, I have read  
2167 the opinion. I do not recall specifically what Section 3  
2168 dealt with.

2169           Mr. Conyers. Well, that is what I am here for.

2170           [Laughter.]

2171           Chairman Smith. Here is Section 3 in a couple of

2172 sentences. "Like most rights, the rights secured by the 2nd  
2173 Amendment is not unlimited." For example, the majority of  
2174 the 19th century courts to consider the question of a  
2175 concealed weapon tell that prohibitions on carrying  
2176 concealed weapons were lawful under the 2nd Amendment. And  
2177 they cite a couple of cases to back them up.

2178 That is under the *Heller* opinion, and so I would like  
2179 to feel comfortable that Judge Gohmert is not relying on  
2180 *Heller* for what he is proposing in this amendment. Am I  
2181 right?

2182 Mr. Gohmert. I am relying on *Heller* from the  
2183 standpoint that this is a right that individuals can have,  
2184 and also for the proposition that any so-called right that  
2185 does not allow anyone to make use of it really is an  
2186 imagined right that does not exist in fact. And I want to  
2187 create that right in fact by observing it.

2188 So, thank you.

2189 Mr. Conyers. Ah, so you are relying on *Heller*, and I  
2190 am relying on *Heller*. That means that one of us may be in  
2191 error.

2192 I am going to read you a couple of sentences. "Like

2193 most rights" -- this is *Heller*. "Like most rights, the  
2194 rights secured by the 2nd Amendment is not unlimited." You  
2195 know what that means. Okay.

2196 Then to make it clearer, they say, for example, the  
2197 majority of the 19th century courts to consider the  
2198 question, held that prohibitions on carrying concealed  
2199 weapons were lawful under the 2nd Amendment.

2200 The prohibitions were lawful, Judge Gohmert. That  
2201 means it was okay, and that is what we are debating here  
2202 today.

2203 Mr. Gohmert. Would the gentleman --

2204 Mr. Conyers. So, I rely on *Heller*, and now you are  
2205 telling me you rely on *Heller*. But, sure, I will yield.

2206 Mr. Gohmert. I do agree I am relying, as I said,  
2207 partially on *Heller*. And just as you read, the right is not  
2208 unlimited, but then again, to be a right, it cannot be  
2209 completely limited. And that is what the District of  
2210 Columbia sub-body that Congress created basically has done.  
2211 And we want to make sure that we do not have incur vast  
2212 amounts of security further for this body. Just let people  
2213 protect themselves, as so many of the founders did who

2214 participated in the 2nd Amendment, in the very district  
2215 where they set this whole system up, or at least started the  
2216 system. Of course, they started in Philadelphia and New  
2217 York originally.

2218 But that is all I am saying. It is not a right if it  
2219 is completely limited, and it appears that is what the local  
2220 folks that we created to govern day to day here have done.  
2221 And since we are required to come to this city, to the  
2222 District of Columbia, to conduct the Nation's business, and  
2223 since any governance in the District of Columbia is created  
2224 by this body and subject to this body, then we have an  
2225 obligation, I think, to see that rights are not completely  
2226 prohibited.

2227 And I do acknowledge, as my friend does, that any  
2228 right is not unlimited, and I am glad he feels that way  
2229 about the right to privacy as well.

2230 Thank you.

2231 Mr. Conyers. I just want to conclude, the decision  
2232 was decided 5-4. So, maybe the 4 that you are citing was  
2233 how this went down and leads to this honest difference of  
2234 interpretation.

2235 Chairman Smith. The gentleman's time has expired.

2236 Thank you, Mr. Conyers.

2237 Are there other members who wish to be heard on the  
2238 amendment? The gentleman from Illinois, Mr. Quigley?

2239 Mr. Quigley. Thank you, Mr. Chairman.

2240 Mr. Chairman, I in part want to align my remarks as to  
2241 this amendment to what you have just said, but, of course,  
2242 take it one step further. At least we can share the same  
2243 stream of thought, and perhaps it will help you understand  
2244 the fundamental difference in the bill itself and our  
2245 differences.

2246 You addressed my State, which does not allow concealed  
2247 carry. And I do not want to paraphrase you wrong, but I  
2248 believe you said they did not buy into, while you may agree  
2249 in principle with what Mr. Gohmert is suggesting, Illinois  
2250 did not buy into concealed carry, and they should not have  
2251 it subjected upon it.

2252 The difference between our thoughts after that is most  
2253 of these States that do not have reciprocal agreements did  
2254 not buy into the concealed carry that the others had. They  
2255 are pretty dramatic. I mean, some of the differences

2256 between the requirements for those who participate, and you  
2257 rightly point out that many of them require fairly thorough  
2258 background analysis and checks. But the training is  
2259 different. The age is different. And in many cases, the  
2260 background of that person is significantly different.  
2261 Legally some of them have obviously gotten into serious  
2262 legal trouble.

2263         So, I would respectfully say at that point, we are  
2264 making the same point, that those States did not buy into  
2265 what the other States did. It is not just a question of  
2266 whether or not you should have concealed carry. There is no  
2267 bright line. There is a dramatic difference between the  
2268 requirements these States have.

2269         So, I agree that I have concerns with this amendment  
2270 for those reasons. I am just explaining it is the same  
2271 thought that you had that makes me concerned about the law  
2272 as a whole.

2273         Mr. Gohmert. Will the gentleman yield?

2274         Mr. Quigley. Certainly.

2275         Mr. Gohmert. And I am really torn over this issue  
2276 because being a strong advocate for States' rights, I have

2277 been very torn and listened intently to the discussions on  
2278 both sides of that issue, and I am still torn about that  
2279 issue.

2280 But, to me, those concerns differ when it comes to the  
2281 District of Columbia. This body does not have the  
2282 obligation, and, in fact, under the 10th Amendment is not  
2283 supposed to dictate to Illinois or any other State what  
2284 their individual gun laws will be as long as they do not  
2285 violate the Constitution, whereas in the District of  
2286 Columbia, any governance here is specifically under this  
2287 body. And that is why even though I am still torn on the  
2288 issue between the States, I see this as different.

2289 But I appreciate the gentleman yielding. Thank you.

2290 Mr. Quigley. And respectfully recovering my time, the  
2291 bottom line problem is it seems to allow the lowest common  
2292 denominator. For all the range of requirements and rules  
2293 that different States, on a bipartisan basis, have set to  
2294 such an important decision, it basically says the least of  
2295 those can be the law in your State, even if you disagree  
2296 with that.

2297 Ms. Jackson Lee. Mr. Chairman?

2298 Chairman Smith. If the gentleman would yield --

2299 Mr. Quigley. I will.

2300 Chairman Smith. -- someone to respond.

2301 Mr. Quigley. Honestly, I was actually giving you the  
2302 opportunity --

2303 Chairman Smith. A real quick answer to your  
2304 rhetorical question is that I do think you have taken my  
2305 thought process too far and extended it over the line.

2306 Mr. Quigley. I am going to quote you when I get back  
2307 home.

2308 [Laughter.]

2309 Chairman Smith. Suffice it to say, and I will repeat  
2310 what I said a while ago, I think Mr. Gohmert may well have a  
2311 good argument on the merits, but in this case, I do not  
2312 believe this is the bill to try to accomplish what he wants  
2313 to accomplish.

2314 So, when I said a while ago the right thing at the  
2315 wrong time, that really did not go to the merits or the  
2316 substance that you are talking about. And that is why I  
2317 think you may have extended my thought process a little too  
2318 far. But I appreciate the arguments of the gentleman.

2319 Are there other members who wish to be heard on the  
2320 amendment?

2321 Ms. Jackson Lee. Mr. Chairman?

2322 Chairman Smith. The gentleman from Iowa, Mr. King?

2323 Mr. King. I thank you, Mr. Chairman. I rise in  
2324 support of the Gohmert amendment. And probably it is not an  
2325 amendment that, you know, that I would have brought, but I  
2326 find myself, having taken an oath to uphold the  
2327 Constitution, and I go back and read the Constitution, it  
2328 says we have a right to keep and bear arms.

2329 Then I look at the District of Columbia, and I see how  
2330 they have put so much restraint on the right to keep and  
2331 bear arms that there is no vestige of that constitutional  
2332 guarantee left in this District of Columbia, even though  
2333 there was a *Heller* decision. Then my recollection is that  
2334 the council met and wrote gun infringing ordinances that  
2335 essentially drew or heeled around the language of *Heller* in  
2336 such a way that they could deny gun possession here in this  
2337 District. And to a lesser degree, it exists in Illinois, no  
2338 handguns in Illinois.

2339 My argument is this, that if you can deny the 2nd

2340 Amendment to citizens of this country anywhere, then you can  
2341 deny the 2nd Amendment to citizens of this country  
2342 everywhere.

2343           And so, even though this might not be my choice of the  
2344 time or the place, I do not have a choice on how to vote on  
2345 this because it is a constitutional issue, and I have taken  
2346 an oath to uphold the Constitution, and I intend to support  
2347 the Gohmert amendment for the reasons that I have said.

2348           But we would not be in this place today with this  
2349 Gohmert amendment before this committee if the city council  
2350 of the District of Columbia had honored the *Heller* decision,  
2351 if they had honored the Constitution itself. And so, they  
2352 have forced us into this situation. We do have the  
2353 authority to amend anything that the council of the District  
2354 of Columbia might decide to take up. That is vested in us,  
2355 the Congress.

2356           So, we have jurisdiction. And from my place, I would  
2357 like to see that jurisdiction assert itself with a very  
2358 clear piece of legislation that would give people of the  
2359 District of Columbia their 2nd amendment rights.

2360           And so, I commend the gentleman from Texas for

2361 bringing this amendment. I intend to support it, and I hope  
2362 there is a happy ending to all of this.

2363 Thank you, and I yield back.

2364 Chairman Smith. Thank you, Mr. King.

2365 Other members who wish to be heard --

2366 Ms. Jackson Lee. Mr. Chairman?

2367 Chairman Smith. The gentlewoman from Texas, Ms.

2368 Jackson Lee?

2369 Ms. Jackson Lee. Mr. Chairman, just because we can  
2370 assert jurisdiction, to my good friend from Iowa, we should  
2371 not wreak havoc on people who have not petitioned this  
2372 Congress to alter the structure of their particular laws.

2373 I would ask my good friend from Texas to withdraw this  
2374 amendment, but my argument is based upon the fact that the  
2375 issue of the constitutional right to carry disturbs me  
2376 because this legislation, in fact, allows the constitutional  
2377 right to carry in States that have not even addressed the  
2378 question. So, there is no answer. The State has not  
2379 spoken. And this legislation stretches the right to carry  
2380 for someone who has a permit to carry a concealed weapon  
2381 from their State to go into States that have not spoken on

2382 the issue.

2383 I think that violates the rights of those citizens who  
2384 have not spoken on the issue and now have individuals in  
2385 their State carrying weapons.

2386 In the instance of the District of Columbia, we did  
2387 cede to them a degree of home rule. And although we have  
2388 had cases that would speak to the question of the 2nd  
2389 Amendment here in the District of Columbia, such as *Heller*,  
2390 I think that the ranking member has made a clear point on  
2391 the number of aspects that *Heller* dictates.

2392 To open this question and override or not collaborate  
2393 with the mayor and members of the city council is arrogant  
2394 on our part.

2395 The only reason why we have oversight over the  
2396 District of Columbia is because they have taxation without  
2397 representation. So, because they are not a State, they do  
2398 not get to utilize the tax dollars of their citizens as they  
2399 would ordinarily do, or get Federal funding through the  
2400 normal process that comes to States. States get billions of  
2401 dollars of Federal dollars, if you will. And we are not,  
2402 except for the regulation of those dollars, not telling them

2403 to have concealed weapon laws or not.

2404 But now we think that we are able to play in this  
2405 puddle, and we can experiment with the District of Columbia  
2406 from the issue of choice, and immigration, and guns. And,  
2407 frankly, I think the chairman is right. However we  
2408 interpret what he said, it is not the right place or the  
2409 right time.

2410 But I will end my comments by simply saying, we cannot  
2411 use the District of Columbia as a laboratory. I think I  
2412 would much prefer seeing legislation before this committee  
2413 on allowing the District of Columbia to have States' rights.  
2414 So, if we are not going to do that, I do not see why we  
2415 should be nitpicking and nickel and diming the people of the  
2416 District of Columbia, unless this chamber, this committee  
2417 room was standing room only with the citizens of District of  
2418 Columbia beating down our door saying, pass this amendment  
2419 to interfere with decision making that we must and would  
2420 like to do ourselves.

2421 So, I would respectfully ask the gentleman to withdraw  
2422 it, but I oppose the amendment and the legislation.

2423 I yield back.

2424 Mr. Poe. Mr. Chairman?

2425 Chairman Smith. Thank you, Ms. Jackson Lee.

2426 The gentleman from Texas, Mr. Poe?

2427 Mr. Poe. Thank you, Mr. Chairman.

2428 I just want to see if I get this right.

2429 First of all, the 2nd Amendment is a constitutional  
2430 right, the right to bear arms. But my good friend, Judge  
2431 Gohmert, who I have the utmost respect for, if I understand  
2432 his amendment correctly, the amendment does not confer any  
2433 expansion of the right to bear arms to the citizens of the  
2434 District of Columbia. It allows someone like me from Texas,  
2435 assume I had a right to carry, to come to Washington, D.C.  
2436 and carry my pistol, concealed weapon, or from other State,  
2437 to come to D.C. and carry. But it does not confer any  
2438 expansion of the right to bear arms on the citizens of the  
2439 District of Columbia.

2440 Therefore, they are facing the situation where they  
2441 have got people from all over the United States coming here  
2442 every day with the right to carry a gun, concealed gun. And  
2443 they have no expansion of that right. It seems to me to be  
2444 somewhat inconsistent. Why are we not giving them the right

2445 to carry as well, and then allow them to go to Texas and  
2446 carry a gun?

2447 So, I think, to me, it is not equal. I mean, this is  
2448 not a legal phrase, but I have heard it at the courthouse,  
2449 what is good for the goose is good for the gander. It seems  
2450 like the gander is getting the gun, and the goose is getting  
2451 cooked in this situation.

2452 So, I have trouble with my friend's amendment for that  
2453 reason because it does not do anything for the District of  
2454 Columbia, and it expands the rights of other people, but  
2455 does not grant those equal rights to the District of  
2456 Columbia. So, that causes me some concern with my friend's  
2457 amendment.

2458 And I will yield back.

2459 Chairman Smith. Okay. Thank you, Mr. Poe.

2460 Are there other members who wish to be heard on the  
2461 amendment?

2462 If not, the question is on the amendment.

2463 All in favor, say aye?

2464 [Chorus of ayes.]

2465 Chairman Smith. Opposed, no?

2466 [Chorus of nays.]

2467 Chairman Smith. In the opinion of the chair, the no's  
2468 have it, and the amendment is not agreed to.

2469 Are there other --

2470 Mr. Conyers. Roll call. We need a roll call.

2471 Chairman Smith. A roll call vote has been requested.

2472 The clerk will call the roll?

2473 Ms. Kish. Mr. Smith?

2474 Chairman Smith. No.

2475 Ms. Kish. Mr. Smith votes no.

2476 Mr. Sensenbrenner?

2477 [No response.]

2478 Ms. Kish. Mr. Coble?

2479 Mr. Coble. No.

2480 Ms. Kish. Mr. Coble votes no.

2481 Mr. Gallegly?

2482 Mr. Gallegly. No.

2483 Ms. Kish. Mr. Gallegly votes no.

2484 Mr. Goodlatte?

2485 Mr. Goodlatte. No.

2486 Ms. Kish. Mr. Goodlatte votes no.

2487 Mr. Lungren?

2488 Mr. Lungren. No.

2489 Ms. Kish. Mr. Lungren votes no.

2490 Mr. Chabot?

2491 [No response.]

2492 Ms. Kish. Mr. Issa?

2493 [No response.]

2494 Ms. Kish. Mr. Pence?

2495 [No response.]

2496 Ms. Kish. Mr. Forbes?

2497 [No response.]

2498 Ms. Kish. Mr. King?

2499 Mr. King. Aye.

2500 Ms. Kish. Mr. King votes aye.

2501 Mr. Franks?

2502 Mr. Franks. No.

2503 Ms. Kish. Mr. Franks votes no.

2504 Mr. Gohmert?

2505 Mr. Gohmert. Aye.

2506 Ms. Kish. Mr. Gohmert votes aye.

2507 Mr. Jordan?

2508 Mr. Jordan. Yes.

2509 Ms. Kish. Mr. Jordan votes yes.

2510 Mr. Poe?

2511 Mr. Poe. No.

2512 Ms. Kish. Mr. Poe votes no.

2513 Mr. Chaffetz?

2514 Mr. Chaffetz. No.

2515 Ms. Kish. Mr. Chaffetz votes no.

2516 Mr. Griffin?

2517 Mr. Griffin. No.

2518 Ms. Kish. Mr. Griffin votes no.

2519 Mr. Marino?

2520 [No response.]

2521 Ms. Kish. Mr. Gowdy?

2522 Mr. Gowdy. Present.

2523 Ms. Kish. Mr. Gowdy votes present.

2524 Mr. Ross?

2525 [No response.]

2526 Ms. Kish. Ms. Adams?

2527 Ms. Adams. No.

2528 Ms. Kish. Ms. Adams votes no.

2529 Mr. Quayle?

2530 Mr. Quayle. No.

2531 Ms. Kish. Mr. Quayle votes no.

2532 Mr. Amodei?

2533 Mr. Amodei. Mr. Amodei votes no.

2534 Mr. Conyers?

2535 Mr. Conyers. No.

2536 Ms. Kish. Mr. Conyers votes no.

2537 Mr. Berman?

2538 [No response.]

2539 Ms. Kish. Mr. Nadler?

2540 Mr. Nadler. No.

2541 Ms. Kish. Mr. Nadler votes no.

2542 Mr. Scott?

2543 Mr. Scott. No.

2544 Ms. Kish. Mr. Scott votes no.

2545 Mr. Watt?

2546 [No response.]

2547 Ms. Lofgren?

2548 Ms. Lofgren. No.

2549 Ms. Kish. Ms. Lofgren votes no.

2550 Ms. Jackson Lee?

2551 Ms. Jackson Lee. No.

2552 Ms. Kish. Ms. Jackson Lee votes no.

2553 Ms. Waters?

2554 Ms. Waters. No.

2555 Ms. Kish. Ms. Waters votes no.

2556 Mr. Cohen?

2557 Mr. Cohen. No.

2558 Ms. Kish. Mr. Cohen votes no.

2559 Mr. Johnson?

2560 [No response.]

2561 Ms. Kish. Mr. Pierluisi?

2562 Mr. Pierluisi. No.

2563 Ms. Kish. Mr. Pierluisi votes no.

2564 Mr. Quigley?

2565 Mr. Quigley. No.

2566 Ms. Kish. Mr. Quigley votes no,

2567 Ms. Chu?

2568 [No response.]

2569 Ms. Kish. Mr. Deutch?

2570 [No response.]

2571 Ms. Kish. Ms. Sanchez?

2572 [No response.]

2573 Mr. Coble. [Presiding.] Other members wishing to  
2574 vote?

2575 The gentleman from Pennsylvania?

2576 Mr. Marino. Mr. Chairman, how am I recorded?

2577 Ms. Kish. Not recorded, sir.

2578 Mr. Marino. No.

2579 Ms. Kish. Mr. Marino votes no.

2580 Mr. Coble. The gentleman from Virginia?

2581 Mr. Forbes. No.

2582 Ms. Kish. Mr. Forbes votes no.

2583 Mr. Coble. The gentleman from North Carolina?

2584 Mr. Watt. No.

2585 Ms. Kish. Mr. Watt votes no.

2586 Mr. Coble. Other members desiring to vote?

2587 The clerk will report?

2588 Ms. Kish. Mr. Chairman, three members voted aye, 24  
2589 members voted nay, and one present.

2590 Mr. Coble. The amendment fails.

2591 Are there other amendments to the bill?

2592           The amendment fails. Are there other amendments to  
2593 the bill?

2594           Mr. Nadler. Mr. Chairman?

2595           Mr. Coble. The gentleman from New York, Mr. Nadler?

2596           Mr. Nadler. I have an amendment at the desk, number  
2597 4.

2598           Mr. Coble. The clerk will report?

2599           Ms. Kish. Amendment to the amendment in the nature of  
2600 a substitute to H.R. 822, offered by Mr. Nadler of New York.

2601           Mr. Coble. Unanimous consent that the amendment be  
2602 considered as read, without objection.

2603           [The information follows:]

2604

2605 Mr. Nadler. May I be recognized to --

2606 Mr. Coble. The gentleman is recognized to explain his  
2607 amendment?

2608 Mr. Nadler. Thank you, Mr. Chairman.

2609 Mr. Chairman, the underlying bill, as modified by the  
2610 substitute amendment, is patently absurd for a party that  
2611 distrusts the Federal government and talks about promoting a  
2612 culture of life. And once again surprised that my  
2613 colleagues on the other side of the aisle are pushing ahead  
2614 with this bill.

2615 It violates the principle of federalism on which this  
2616 country is based, flies in the face of hundreds of years of  
2617 American law with respect to gun regulations, and it will  
2618 directly lead to more deaths in the United States.

2619 As we are so often reminded by my Republican friends,  
2620 we have a Federal form of government in which the Federal  
2621 government has some responsibilities and the States have  
2622 others. While rooted in the Constitution, the reason for  
2623 this federalism is that some issues are best handled at the  
2624 local level and some at the Federal level. Generally  
2625 speaking, gun control is a prime example.

2626 I represent a very urban area, Manhattan and Brooklyn,  
2627 or parts of Manhattan and Brooklyn, in New York City. With  
2628 a dense population and comparatively higher risk of  
2629 violence, there is good reason that the residents of my  
2630 district would want strict firearms control. At the other  
2631 end of the spectrum are rural areas with wide open spaces  
2632 and an interest in hunting. And people there may want  
2633 flexible rules on guns.

2634 Every State from these more urbanized, like New York,  
2635 to those more rural, like Alaska, has to arrive at the right  
2636 balance for its residents. Not surprisingly, this approach  
2637 is how legislation about guns has been handled for most of  
2638 our history.

2639 States and localities have taken the lead, with the  
2640 Federal government having a limited role -- too limited in  
2641 my view, but limited nonetheless. The Federal government,  
2642 which did not begin enacting serious gun control until the  
2643 20th century, merely has opted to set the bare minimum  
2644 standards, the floor of gun control.

2645 This bill turns our historic principle of federalism  
2646 and our tradition of firearms legislation completely upside

2647 down. Through this bill, the Federal government would tell  
2648 States that their gun control laws can be overridden by  
2649 those of any other State. It would do so by allowing anyone  
2650 with a permit to carry a concealed handgun, to bring that  
2651 gun into State of which they are not a resident, regardless  
2652 of whether or not they could even possess any firearm in  
2653 that State. And they could conceal a handgun in any State  
2654 of which they are not a resident, regardless of whether they  
2655 have met that State's rules and requirements for concealed  
2656 carry. These rules could include training and testing  
2657 requirements. For example, this bill, as modified by the  
2658 substitute amendment, is thus an affront to federalism.

2659       Additionally, because this bill allows people to carry  
2660 weapons into States in which they either may not otherwise  
2661 be allowed to have a gun, or if they could have a gun, to  
2662 carry it in a concealed manner, this bill sets up an odd  
2663 situation in which in-State residents may have fewer rights  
2664 with respect to guns than out of state residents. There is  
2665 no system of government in which that makes any logical  
2666 sense.

2667       Not only is this bill nonsensical from an abstract

2668 policy perspective, it will have real harmful consequences  
2669 on the ground. According to the Violence Policy Center,  
2670 almost 400 people have been killed in non-self-defense  
2671 related incidents since May 2007 by persons with concealed  
2672 handguns. This includes 11 law enforcement officers who  
2673 were murdered.

2674 It is to highlight the problems with this bill and  
2675 hopefully to take a small step in limiting its damage that I  
2676 offer this amendment, which is based on legislation I  
2677 introduced in February, H.R. 505, The Keep Kids Safe Act.  
2678 This amendment would allow States that prohibit those  
2679 convicted of misdemeanor sex offenses against minors from  
2680 possessing or carrying firearms, or prohibit such offenders  
2681 from carrying concealed handguns to enforce their laws.

2682 While it is against Federal law for a person convicted  
2683 of a felony, including a felony sex crime against a minor,  
2684 to buy, sell, or possess guns or ammunition is legal at the  
2685 Federal level if he or she has been convicted of one or more  
2686 misdemeanor sex crimes against a minor. My bill would close  
2687 this gap. This amendment would close this gap.

2688 Fortunately, a few States, including New York, have

2689 sought to close this gap in protection already. They  
2690 prohibit at least some such misdemeanor offenders from  
2691 possessing firearms.

2692         With respect to carrying a concealed handgun, of the  
2693 States which require a permit be granted if certain criteria  
2694 are met, some States, such as Texas and Pennsylvania, would  
2695 deny a permit to someone convicted of a misdemeanor sex  
2696 offense against a minor under certain circumstances. In  
2697 other States, the permit decision is discretionary. And  
2698 among the listed criteria officials are often instructed to  
2699 use is whether an applicant has good moral character or is a  
2700 suitable person for a concealed carry privilege.

2701         I would hope that those guilty of misdemeanor sex  
2702 offenses against children would not be considered to have  
2703 good moral character or to be a suitable person to carry a  
2704 concealed weapon.

2705         Without my amendment, though, all of these State laws  
2706 would be overridden. Without my amendment, dangerous  
2707 criminals who already have shown a propensity to target  
2708 children would be able to waltz from State to State,  
2709 regardless of State law, with concealed handguns. If we

2710 value the safety of our children, this is too great a risk  
2711 to allow.

2712 This amendment would simply state that notwithstanding  
2713 the other provisions of the bill, the possession or carrying  
2714 of a concealed handgun in a State under this section shall  
2715 be subject to any State law that may exist limiting the  
2716 eligibility to possess or carry a concealed handgun by  
2717 reason of a conviction in any court of a misdemeanor sex  
2718 offense against a minor.

2719 In other words, what this amendment would do is to say  
2720 that if a State has a law limiting or prohibiting someone  
2721 convicted of a misdemeanor sex offense against a minor from  
2722 having a handgun or having a concealed carry permit, that  
2723 would be enforceable by that State despite the other  
2724 provisions of this bill.

2725 I ask all members to support this amendment to protect  
2726 the safety of our children and to allow States to protect  
2727 their citizens as they see fit.

2728 I yield back the balance of my time.

2729 Mr. Coble. I thank the gentleman from New York.

2730 The gentleman from Arizona wish to be heard?

2731 Mr. Franks. Yes. Thank you, Mr. Chairman.

2732 Mr. Chairman, if I could yield first to the gentleman  
2733 from New York. You know, I used to be the head of the  
2734 Children's Department in Arizona. And I wondered if you  
2735 could give us an example of a misdemeanor sex crime that  
2736 would fit under your amendment?

2737 Mr. Nadler. Well, off the top of my head I cannot,  
2738 but there are many States which have misdemeanor sex  
2739 offenses. And this amendment simply says, if it is a  
2740 misdemeanor sex offense, and if under the law of that State,  
2741 and if that State prohibits people convicted of misdemeanor  
2742 sex offenses from having concealed carry permits, they can  
2743 enforce their own law. It is up the legislature in each  
2744 State.

2745 Mr. Franks. All right. Claiming my time, the point I  
2746 was trying to make, Mr. Chairman, is that the misdemeanor  
2747 sex crimes vary greatly from State to State. And in most  
2748 cases, you know, for it to be a misdemeanor, for it not to  
2749 rise to a felony, it is things like a 17-year-old and an 18-  
2750 year-old, a lot of different aspects of it.

2751 And the exceptions to this generally involved

2752 consensual acts by older teenagers as a category of sex  
2753 offenses that is under scrutiny in many States. And it is,  
2754 frankly, the subject of a lot of contention among my friends  
2755 across the aisle when the issue has been raised in other  
2756 legislation.

2757         This amendment complicates the issue even further by  
2758 attempting to define what is not a sex crime against a minor  
2759 for the purposes of this bill by examining the criminal  
2760 procedure by which a conviction was obtained.

2761         Now, according to the National Crime Victimization  
2762 Survey, sex offenses are among the least likely to be  
2763 perpetrated with a weapon. Data from this study shows  
2764 firearms to be among the least likely weapons in such  
2765 attacks.

2766         Now, no one is advocating that sex offenders of any  
2767 sort should carry weapons. However, this amendment is a  
2768 solution in search of a problem, and I have to oppose it.  
2769 And it appears to me, Mr. Chairman, that it is an attempt to  
2770 make members take votes that appear to be soft on crime and  
2771 child exploitation, even though the amendment would do  
2772 little or nothing to make children safer.

2773 For in any State that says if you are convicted of a  
2774 misdemeanor sex offense against a child, in any State that  
2775 says that you cannot carry a weapon, that is still illegal.  
2776 That is still illegal. If the State says, if you are  
2777 convicted of a crime, of a sex offense against a child and  
2778 you cannot carry that --

2779 Mr. Nadler. Would the gentleman yield?

2780 Mr. Franks. Not for the moment.

2781 The bottom line is that this is an attempt to make  
2782 members appear soft on crime. And I am just sorry that it  
2783 has to happen.

2784 But I do hope the next time the issue comes up in some  
2785 other area that my friends on the other side of the aisle  
2786 will speak up.

2787 Mr. Nadler. Would the gentleman yield now?

2788 Mr. Franks. And with that, I yield back.

2789 Mr. Scott. Mr. Chairman?

2790 Chairman Smith. The gentleman from Arizona has  
2791 yielded back.

2792 The gentleman from Virginia, Mr. Scott, is recognized?

2793 Mr. Scott. Thank you, Mr. Chairman. I strike to move

2794 second to last word. I was surprised to hear what the  
2795 gentleman just said because I thought we just defeated an  
2796 amendment that dealt with eligibility in the State.

2797       If there is no Federal prohibition against you getting  
2798 a concealed carry permit, and your home State has a  
2799 prohibition, as the gentleman from New York has suggested,  
2800 for certain offenses, you can get a permit in the other  
2801 State if you are able to get a permit in that State. And  
2802 you can use that permit in any State in the Union, except  
2803 your home State whether they have rules against that or not.

2804       So, if New York had a prohibition against getting a  
2805 concealed carry with a misdemeanor conviction, Virginia has  
2806 the same thing. I have to go to Utah or somewhere, get a  
2807 concealed weapons permit, and then go to New York,  
2808 notwithstanding their law against it. We had an amendment.  
2809 The gentleman from Michigan's amendment was to enact exactly  
2810 what you just said would happen.

2811       So, the gentleman from New York is just trying to  
2812 actually codify what you described as the bill, which is  
2813 different from what is in the legislation.

2814       I yield from the gentleman from New York.

2815           Mr. Nadler. Thank you. Mr. Chairman, Mr. Franks  
2816 asked if I would give an example of a law, and let me give  
2817 an example. New York law, my own State, second degree  
2818 sexual abuse, which is defined as sexual contact with a  
2819 minor under 14 years old, is a misdemeanor. There are other  
2820 misdemeanor sex crimes where the victim is an adult. But  
2821 that is one example.

2822           And under New York law, if you are convicted of a  
2823 serious offense, which includes, among other things, sex  
2824 misdemeanors as well as sex felonies, you cannot carry or  
2825 possess a gun. New York law.

2826           What this bill does, without my amendment, is to say  
2827 that if you have a gun permit from another State, from  
2828 Arizona, let us say, or a concealed carry permit from  
2829 Arizona, even though you are convicted of a sex misdemeanor,  
2830 you can come into New York, and New York cannot enforce its  
2831 own law against allowing you to carry the gun in New York,  
2832 even though you commit a sexual misdemeanor in New York.

2833           This amendment simply says that New York can enforce  
2834 its own law to prohibit people convicted of sex misdemeanors  
2835 against children from carrying pistols, and so can other

2836 States. If Arizona wants to let people, because Mr. Franks  
2837 says that statistics show that people who commit sex crimes  
2838 against minors are the least likely to have guns, maybe that  
2839 is true. But it is not always true. And if New York or  
2840 California or whoever wants to have a law that says someone  
2841 who commits a sexual crime, including a misdemeanor against  
2842 a minor, cannot carry a gun, why should we say that New  
2843 York's law or California's is overridden because some other  
2844 State thinks that for its purposes in its State, they do not  
2845 want to have such a law.

2846 If Arizona wants to legislate it, let it legislate it.  
2847 Let it say that we like guns, we like people carrying guns  
2848 even if they are sex offenders. Fine. But do not seek to  
2849 export your law to allow someone to come into New York who  
2850 has committed a sex offense and carry the gun in New York if  
2851 New York legislates against it.

2852 That is why I said that this bill, without this  
2853 amendment, violates federalism and does not make any sense  
2854 at all. And so, my amendment simply says a State can  
2855 enforce a law within in its borders against allowing someone  
2856 convicted of a sex offense against a minor, a misdemeanor

2857 sex offense against a minor, from having a gun. And no  
2858 other State should have a say in whether New York can  
2859 enforce its law in its own State. That is all this  
2860 amendment does, and I do not see how anybody can rationally  
2861 oppose it unless you think that one State has superior  
2862 wisdom and ought to enforce its laws against all the other  
2863 States. That does not make any sense.

2864 I thank the gentleman for yielding, and I yield back.

2865 Mr. Lungren. Mr. Chairman.

2866 Chairman Smith. The gentleman yields back. Are there  
2867 other members who wish to be heard? If not --

2868 Mr. Lungren. Mr. Chairman?

2869 Chairman Smith. The gentleman from California?

2870 Mr. Lungren. I wish I did not have to get into this,  
2871 but let us at least read what we are doing.

2872 The bill is an attempt allow people to carry firearms  
2873 into other States, subject to time, place, and manner  
2874 restrictions of the second State.

2875 The eligibility question of whether or not a State  
2876 wants to prohibit someone who has a misdemeanor conviction  
2877 for a sex offense against a child is an eligibility

2878 question, not a question of time, place, and manner.

2879 So, at least let us know what we are voting for.

2880 The question before us really is, do you think that  
2881 the issue of misdemeanor sex crimes against children is such  
2882 that you want a State to be allowed to say that no one can  
2883 carry in their State, if, in fact, they have been convicted  
2884 of that or not?

2885 I mean, I hate to differ with the gentleman from  
2886 Arizona, but I am reading the language. I spent years in  
2887 court trying cases. I have looked at words and know what  
2888 they mean. And unless you can show me that that is not the  
2889 case, I am afraid the gentleman from New York is right. And  
2890 I am very reluctant to agree with the gentleman from New  
2891 York.

2892 [Laughter.]

2893 Mr. Nadler. I appreciate that.

2894 Mr. Lungren. No, but, I mean, let us at least talk  
2895 about what the language is, and at least understand what we  
2896 are asking members to vote on. And it is a question of  
2897 eligibility. If in fact I have a State and I say you are  
2898 ineligible to have a permit, if you have been convicted of a

2899 misdemeanor sex offense against a child, that is an  
2900 eligibility question. That is not a question of time,  
2901 place, and manner. So, come on, folks. Let us at least  
2902 talk about what it is.

2903 I wish I did not have to get dragged into this.

2904 Mr. Franks. Will the gentleman yield?

2905 Mr. Lungren. I will happy to yield.

2906 Mr. Franks. Because I respect the gentleman greatly.

2907 And technically, related to the eligibility argument, I do  
2908 not take issue with that.

2909 Here is what I take issue with. If someone had been  
2910 convicted of this type of misdemeanor crime in, say,  
2911 California, and that did not apply in California, so they  
2912 were eligible to get a California permit. And they came to  
2913 New York, where in Mr. Nadler's State, they had a law that  
2914 says no one can carry a gun in this State that has been  
2915 convicted of a misdemeanor crime, a sexual crime against a  
2916 child. No one can do that. That still prevents the person  
2917 from carrying the gun.

2918 Mr. Lungren. If I can reclaim my time, unfortunately  
2919 under the language of the statute that is proposed, I

2920 disagree with the gentleman. And we can argue about this.  
2921 That is why I have said in court one or two or three words  
2922 are extremely important because it makes the difference in  
2923 the way a jury or judge will decide.

2924 But the fact of the matter is, it is a question of  
2925 eligibility, not a question of time, place, and manner. And  
2926 I just want to --

2927 Mr. Pierluisi. Would the gentleman yield?

2928 Mr. Lungren. I would happy to yield.

2929 Mr. Pierluisi. Yeah. Could you please explain to me  
2930 the distinction that you are making between eligibility and  
2931 time, place, and manner, because as I read the underlying  
2932 bill, if you have a concealed carry permit from, let us say,  
2933 California, your home State, and you move or you, for  
2934 whatever reasons, you are in Virginia. And you are entitled  
2935 under the underlying bill to get a permit in Virginia, even  
2936 though the requirements in Virginia might be different. All  
2937 kinds of requirements.

2938 You are entitled to get the permit because this bill  
2939 provides for full reciprocity regardless of whether we are  
2940 talking about eligibility, time, place, or manner.

2941           Mr. Lungren. No, no, no, no. Let me reclaim my time.  
2942 However, you would be subject while you are in Virginia to  
2943 all restrictions they have with respect to time, place, and  
2944 manner placed on those who have permits. So, that is the  
2945 difference. It is the question of whether you are eligible  
2946 for it the first instance, and then the manner in which the  
2947 law would be applied. The manner in which the laws is  
2948 applied as far as time, place, and manner in the State in  
2949 which you find yourself with your permit from another State  
2950 would prevail.

2951           But the question of eligibility is one that we are  
2952 dealing with in the bill. And I am trying to find a way to  
2953 support the bill, understanding that it is eligibility. But  
2954 at least I want to make sure that we know what we are  
2955 talking about what is stated in the amendment.

2956           Mr. Scott. Would the gentleman yield? Would the  
2957 gentleman yield?

2958           Mr. Lungren. I would be happy to yield, if I have not  
2959 said too much already.

2960           Mr. Scott. I know we have been here a long time, but  
2961 we had an amendment offered by the gentleman from Michigan

2962 Mr. Conyers, that would have dealt with this exact problem,  
2963 that would strike the provision stating that the State  
2964 requirements on eligibility do not apply to non-residents.  
2965 If we had adopted his amendment, then what the gentleman  
2966 from Arizona is saying would be accurate. But we defeated  
2967 that amendment.

2968 Mr. Lungren. Well, my point is, with what we have  
2969 before us, we at least ought to know what we are voting on.  
2970 And I think we ought to make a judgment as to whether the  
2971 gentleman from New York amendment is appropriate with  
2972 respect to the question of a misdemeanor conviction for a  
2973 sex crime against a child.

2974 That has been a controversial issue in this forum and  
2975 other forums because the question was suggested sex between  
2976 a 19-year-old and a 17-year-old and how they plead out some  
2977 of those cases and so forth. And I understand all that.  
2978 But I think we ought to understand what is being presented  
2979 to us here.

2980 Chairman Smith. The gentleman's time has expired.

2981 The question is on the Nadler amendment. All in  
2982 favor, say aye.

2983 [Chorus of ayes.]

2984 Chairman Smith. Opposed, no.

2985 [Chorus of nays.]

2986 Chairman Smith. Opposed no?

2987 [Chorus of nays.]

2988 Chairman Smith. In the opinion of the chair, the no's

2989 have it, and the amendment is --

2990 Mr. Nadler. Mr. Chairman.

2991 Chairman Smith. On that, there will be a roll call

2992 vote. And the clerk will call the roll?

2993 Mr. Nadler. Did you really say the no's have it?

2994 [Laughter.]

2995 Ms. Kish. Mr. Smith?

2996 Chairman Smith. No.

2997 Ms. Kish. Mr. Smith votes no.

2998 Mr. Sensenbrenner?

2999 [No response.]

3000 Ms. Kish. Mr. Coble?

3001 Mr. Coble. No.

3002 Ms. Kish. Mr. Coble votes no.

3003 Mr. Gallegly?

3004 Mr. Gallegly. No.

3005 Ms. Kish. Mr. Gallegly votes no.

3006 Mr. Goodlatte?

3007 Mr. Goodlatte. No.

3008 Ms. Kish. Mr. Goodlatte votes no.

3009 Mr. Lungren?

3010 Mr. Lungren. Yes.

3011 Ms. Kish. Mr. Lungren votes yes.

3012 Mr. Chabot?

3013 [No response.]

3014 Ms. Kish. Mr. Issa?

3015 [No response.]

3016 Ms. Kish. Mr. Pence?

3017 [No response.]

3018 Ms. Kish. Mr. Forbes?

3019 [No response.]

3020 Ms. Kish. Mr. King?

3021 Mr. King. No.

3022 Ms. Kish. Mr. King votes no.

3023 Mr. Franks?

3024 Mr. Franks. No.

3025 Ms. Kish. Mr. Franks votes no.  
3026 Mr. Gohmert?  
3027 [No response.]  
3028 Ms. Kish. Mr. Jordan?  
3029 Mr. Jordan. No.  
3030 Ms. Kish. Mr. Jordan votes no.  
3031 Mr. Poe?  
3032 [No response.]  
3033 Ms. Kish. Mr. Chaffetz?  
3034 Mr. Chaffetz. No.  
3035 Ms. Kish. Mr. Chaffetz votes no.  
3036 Mr. Griffin?  
3037 Mr. Griffin. No.  
3038 Ms. Kish. Mr. Griffin votes no.  
3039 Mr. Marino?  
3040 [No response.]  
3041 Ms. Kish. Mr. Gowdy?  
3042 Mr. Gowdy. No.  
3043 Ms. Kish. Mr. Gowdy votes no.  
3044 Mr. Ross?  
3045 [No response.]

3046 Ms. Kish. Ms. Adams?  
3047 Ms. Adams. No.  
3048 Ms. Kish. Ms. Adams votes no.  
3049 Mr. Quayle?  
3050 Mr. Quayle. No.  
3051 Ms. Kish. Mr. Quayle votes no.  
3052 Mr. Amodei?  
3053 Mr. Amodei. Mr. Amodei votes no.  
3054 Mr. Conyers?  
3055 Mr. Conyers. Aye.  
3056 Ms. Kish. Mr. Conyers votes aye.  
3057 Mr. Berman?  
3058 [No response.]  
3059 Ms. Kish. Mr. Nadler?  
3060 Mr. Nadler. Aye.  
3061 Ms. Kish. Mr. Nadler votes aye.  
3062 Mr. Scott?  
3063 Mr. Scott. Aye.  
3064 Ms. Kish. Mr. Scott votes aye.  
3065 Mr. Watt?  
3066 Mr. Watt. Aye.

3067 Ms. Kish. Mr. Watt votes aye.

3068 Ms. Lofgren?

3069 Ms. Lofgren. Aye.

3070 Ms. Kish. Ms. Lofgren votes aye.

3071 Ms. Jackson Lee?

3072 [No response.]

3073 Ms. Kish. Ms. Waters?

3074 [No response.]

3075 Ms. Kish. Mr. Cohen?

3076 Mr. Cohen. Aye.

3077 Ms. Kish. Mr. Cohen votes aye.

3078 Mr. Johnson?

3079 Mr. Johnson. Aye.

3080 Ms. Kish. Mr. Johnson votes aye.

3081 Mr. Pierluisi?

3082 Mr. Pierluisi. Aye.

3083 Ms. Kish. Mr. Pierluisi votes aye.

3084 Mr. Quigley?

3085 Mr. Quigley. Aye.

3086 Ms. Kish. Mr. Quigley votes aye.

3087 Ms. Chu?

3088 Ms. Chu. Aye.

3089 Ms. Kish. Ms. Chu votes aye.

3090 Mr. Deutch?

3091 [No response.]

3092 Ms. Kish. Ms. Sanchez?

3093 [No response.]

3094 Chairman Smith. The gentleman from Pennsylvania?

3095 Mr. Marino. Mr. Chairman, how am I recorded?

3096 Ms. Kish. Not recorded, sir.

3097 Mr. Marino. No.

3098 Ms. Kish. Mr. Marino votes no.

3099 Chairman Smith. The gentleman from Virginia?

3100 Mr. Forbes. No.

3101 Ms. Kish. Mr. Forbes votes no.

3102 Chairman Smith. The gentleman from Texas?

3103 Mr. Poe. No.

3104 Ms. Kish. Mr. Poe votes no.

3105 Chairman Smith. And the gentleman from Wisconsin?

3106 Mr. Sensenbrenner. No.

3107 Ms. Kish. Mr. Sensenbrenner votes no.

3108 Chairman Smith. The clerk will report?

3109 Ms. Kish. Mr. Chairman, 11 members voted aye, 17  
3110 members voted nay.

3111 Chairman Smith. The majority having voted against the  
3112 amendment, the amendment is not agreed to.

3113 Are there other amendments?

3114 The gentleman from New York, Mr. Nadler?

3115 Mr. Nadler. Mr. Chairman, I have an amendment at the  
3116 desk, Nadler number 5.

3117 Chairman Smith. The clerk will report amendment  
3118 number 5?

3119 Ms. Kish. Amendment to the amendment in the nature of  
3120 a substitute to H.R. 822 offered by Mr. Nadler, page 2,  
3121 after --

3122 Mr. Nadler. Mr. Chairman, I ask unanimous consent  
3123 that the amendment be considered as read.

3124 [The information follows:]

3125

3126 Chairman Smith. The gentleman is recognized to  
3127 explain his amendment?

3128 Mr. Nadler. Thank you. Mr. Chairman, as shocking as  
3129 this may sound, it is currently perfectly legal for known or  
3130 suspected terrorists to buy guns in the United States. This  
3131 is known as the terror gap. This amendment, at least  
3132 partially, closes this loophole. It would take away the  
3133 right provided in H.R. 822 for terrorists to carry concealed  
3134 handguns across State lines.

3135 I represent Ground Zero, the site of the worst  
3136 terrorist attack in our Nation's history. We recently  
3137 recognized the 10th anniversary of this attack on 9/11. It  
3138 was a time to honor the memory of those we lost, to  
3139 recognize the heroism that we saw that day, and to take  
3140 stock of what we have done since then to make sure such a  
3141 horrible tragedy never happens again.

3142 Everyone agrees that we have made strides in  
3143 strengthening homeland security in the last decade.  
3144 Unfortunately, despite all we have done to fight terrorist  
3145 and protect the homeland from another attack, the terror gap  
3146 in our gun laws remains.

3147           It is certainly an oddity, to say the least, that we  
3148 spend hundreds of billions of dollars and expend enormous  
3149 effort to make our country secure, but we cannot or will not  
3150 close an obvious security loophole. And this is a loophole  
3151 that we know has been and is being exploited.

3152           According to the Government Accountability Office, the  
3153 GAO, of the 1,453 people found to be on the terrorist watch  
3154 list when they were trying to buy guns or explosives between  
3155 2004 and December 2010, 1,321 of the 1,453 were allowed to  
3156 proceed with the purchase. That is a success rate of 91  
3157 percent of people on the terrorist watch list being  
3158 permitted to buy guns.

3159           Since there is no Federal law against such purchases,  
3160 they would have to have been blocked for some other reason.  
3161 Tragically, for most, there was no reason on which the  
3162 purchase could be denied legally.

3163           The results of this gap in security have been serious  
3164 and deadly. Just two years ago, for example, Major Nidal  
3165 Hassan murdered 13 people and wounded 30 others at Ft .Hood.  
3166 He had been investigated for suspicious activities by the  
3167 FBI, but that did not stop him from buying a weapon. And

3168 his purchase of that weapon was never shared with FBI  
3169 investigators.

3170 I am proud to co-sponsor bipartisan legislation, H.R.  
3171 1506, sponsored by my colleague from New York, the chairman  
3172 of the Homeland Security Committee, Mr. King, that would  
3173 close this gap and prevent the known and suspected  
3174 terrorists from obtaining firearms.

3175 This amendment is a narrow version of this bill, and  
3176 would take the small step of prohibiting the same group of  
3177 dangerous people, who are on the terrorists watch list  
3178 basically, people who wish nothing more than to do harm to  
3179 as many Americans as possible, from carrying concealed  
3180 handguns under the authority granted by the bill we are  
3181 marking up today.

3182 I cannot fathom under what principle or ideology it  
3183 makes sense to allow known or suspected terrorists to buy  
3184 firearms and explosives and to carry them in a concealed  
3185 manner. It makes even less sense, if that is possible, to  
3186 allow them to carry concealed handguns across State lines.

3187 Without this amendment, we would be allowing  
3188 terrorists with concealed handgun permits to bring their

3189 concealed weapons across State lines with no ability of the  
3190 States to do anything about it. This bill is really a gift  
3191 to terrorists around the world who want to come to the U.S.  
3192 and use our own lax gun laws against us.

3193 My amendment presents a simple question: do you favor  
3194 terrorists' rights over keeping families and children safe  
3195 from mass murder? If so, oppose my amendment. If you do  
3196 not favor the terrorists' rights, then support my amendment.

3197 I yield back the balance of my time.

3198 Chairman Smith. Thank you, Mr. Nadler. I will  
3199 recognize myself in opposition.

3200 This amendment would promote the Attorney General to  
3201 block a person from carrying a concealed weapon in another  
3202 State if the Attorney General determines, "that the person  
3203 is known or reasonably suspected to be a terrorist." This  
3204 amendment is both vague and ambiguous. It does not define  
3205 what it means to be known or reasonably suspected to be  
3206 engaged in terrorism, nor does it define terrorist itself.

3207 This amendment does not require that a person be  
3208 convicted of an act of terrorist, a felony for which current  
3209 law already would prohibit them from possessing a firearm.

3210 This amendment bases the denial of 2nd Amendment rights on  
3211 whether a person is simply known or reasonably suspected to  
3212 be engaged in terrorism.

3213 How would this be determined? What does it mean to be  
3214 known to engage in terrorism? If a person is charged in a  
3215 complaint or indicted, or is it enough that a neighbor  
3216 thinks they are acting suspiciously?

3217 This amendment also does not provide any specifics on  
3218 what it means to be engaged in terrorist, nor does it  
3219 provide Americans an avenue through which they can protect  
3220 their 2nd Amendment rights. It is not uncommon for the  
3221 government's no fly and terrorist watch lists to erroneously  
3222 list a law abiding citizen. This amendment provides no  
3223 procedure through which a person who is erroneously  
3224 prohibited from carrying a concealed weapon can challenge  
3225 this denial. This is something that I know the gentleman  
3226 has argued for in the past.

3227 The amendment places the enforcement of this provision  
3228 at the Federal level, despite the fact that it is the States  
3229 that actually issue concealed carry permits. This amendment  
3230 is silent as to how the States are to comply with the

3231 directive to ban non-residents from carrying concealed  
3232 weapons when they do not have access to the relevant  
3233 information.

3234 I am frankly a little surprised that my colleague from  
3235 New York would offer this amendment to infringe on the  
3236 fundamental constitutional rights of U.S. citizens solely on  
3237 the basis of hearsay and suspicions, given his strong record  
3238 of working to protect civil liberties.

3239 So, I oppose the amendment and urge my colleagues to  
3240 oppose it as well.

3241 Let me also say to the members who are here, it is my  
3242 intent to recess for the day after we consider this  
3243 amendment and one other. We will break for the joint  
3244 session and then resume our markup at 10:00 tomorrow  
3245 morning.

3246 Are there other members who wish to be heard on this  
3247 amendment? And the gentleman from Virginia, Mr. Scott, is  
3248 recognized?

3249 Mr. Scott. Okay. Mr. Chairman, I would hope that you  
3250 would have the same reasoning that you have just used -- I  
3251 think the gentleman from New York wants to make a comment.

3252 Yield to the gentleman from New York.

3253           Mr. Nadler. I thank the gentleman for yielding. It  
3254 is indeed somewhat troubling to ever condition a right on  
3255 something other than -- or restrict a right, I should say --  
3256 on something other than a conviction. But sometimes you  
3257 have to do that. Sometimes you do not want to wait until  
3258 someone commits murder or terrorist or blows an airplane out  
3259 of the sky before you say we are going to take some  
3260 precautions.

3261           Now, the language here is drawn from language relating  
3262 to the terrorist watch list from the no fly list. It is  
3263 rather a fundamental right to travel from State A to State B  
3264 or from anyplace to anyplace. And yet, we say that if you  
3265 are on the terrorist watch list, the Federal government  
3266 maintains a no fly list, not based solely on convictions.

3267           So, the objection to this amendment that was voiced by  
3268 the distinguished chairman is that we should not restrict  
3269 2nd Amendment rights based on anything other than a  
3270 conviction. And I have some sympathy with that, except that  
3271 we restrict the right to travel, we restrict various other  
3272 things because we are trying to protect ourselves.

3273           And here what we are saying is that someone who  
3274 essentially is on the terrorist watch list, even if he has  
3275 not been convicted, granted, should not be able to carry a  
3276 concealed weapon. That seems an elementary precaution. We  
3277 say you cannot fly on an airplane. You cannot do various  
3278 other things. But you only object when we say you cannot  
3279 carry the gun.

3280           Frankly, the 2nd Amendment is important, but so is the  
3281 14th Amendment, so are a lot of other amendments, and so is  
3282 the right to life, not the right to life with respect to  
3283 abortions only, but the right to life period.

3284           And what we are saying is we have to take some  
3285 elementary precautions to protect the right to life of  
3286 everybody. And clearly we should not permit people on the  
3287 terrorist watch list to carry concealed weapons. That is  
3288 all this amendment says.

3289           Now, if you want to take an absolute view of the 2nd  
3290 Amendment, we do not take an absolute view of any amendment,  
3291 not the 1st Amendment, you cannot fire in a crowded theater  
3292 without paying a penalty for it and so forth. That would be  
3293 a little unusual.

3294 I hope that no one takes an absolute view of the 2nd  
3295 Amendment or of any other amendment, and that we would take  
3296 the elementary precaution of saying if you are on the  
3297 terrorist watch list, if we have good reason to suspect that  
3298 you are a terrorist, you should not be allowed to carry a  
3299 concealed weapon. It is very simple, and I thank the  
3300 gentleman.

3301 And I hope that on that basis, people will support  
3302 this amendment. It does not do violence to the 2nd  
3303 Amendment, or at least it does not do more violence to the  
3304 2nd Amendment than the no fly list and a lot of other  
3305 restrictions we put on people on the terrorist list, does to  
3306 other rights.

3307 The 2nd Amendment is an important right --

3308 Chairman Smith. Thank you.

3309 Mr. Nadler. -- but it is not an absolute right, and  
3310 it is not more important than the right to freedom of speech  
3311 or the right to travel that we restrict because we are  
3312 trying to protect ourselves.

3313 Chairman Smith. Okay.

3314 Mr. Nadler. So, I urge support for this amendment,

3315 and I yield back. And I thank the gentleman for yielding.

3316 Mr. Scott. Reclaiming my time, Mr. Chairman, I would  
3317 hope, Mr. Chairman, that you would show the same kind of  
3318 deference to the Constitution when other similar issues come  
3319 up when people are placed on lists with no --

3320 Chairman Smith. I am always sensitive to civil  
3321 liberties. But I thank the gentleman for pointing that out.

3322 Mr. Scott. And we will record that little testimony  
3323 so that we could replay it --

3324 Chairman Smith. An appropriate time.

3325 Mr. Scott. I am sure we will have plenty of  
3326 opportunities.

3327 Chairman Smith. Thank you, Mr. Scott.

3328 The gentleman from Arizona, Mr. Franks?

3329 Mr. Franks. Mr. Chairman, first of all, speaking of  
3330 replaying testimony, one of the concerns I have with this  
3331 amendment is when they talk about reasonably suspected of  
3332 having engaged in terrorism.

3333 We had a hearing here where General Holder spoke to  
3334 all of us, and the chairman asked the general about the  
3335 definition of terrorist. And your question, Mr. Chairman,

3336 to Mr. Holder was, "Do you consider individuals who were  
3337 trained at terrorist training camps to be terrorists?" Mr.  
3338 Holder said, "Well, I think you have to make individualized  
3339 determinations about a particular person."

3340 "Mr. Smith. If someone were trained at a terrorist  
3341 training camp by a terrorist, say, in the use of weapons  
3342 against civilians, would they be a terrorist?"

3343 "Mr. Holder. Well, it gets closer to the definition  
3344 of a person I would agree would be a terrorist."

3345 "Mr. Smith. But if the Treasury Department and the  
3346 United Nations designated an organization to be a terrorist  
3347 organization, would you consider members of that  
3348 organization to be terrorist organization, would you  
3349 consider members of that organization to be terrorists?"

3350 "Mr. Holder. Again, it would depend on the connection  
3351 that person had to the organization."

3352 Chairman Smith. Okay.

3353 "Mr. Smith. So, someone could be trained as a  
3354 terrorist, trained in all the capabilities of a terrorist,  
3355 and yet the Administration might not consider them to be a  
3356 terrorist."

3357 "Mr. Holder. I am not saying that. What am I saying  
3358 is if you want to look at specifics -- you are throwing  
3359 hypotheticals at me, and I am not sure I can respond."

3360 A lot of hypotheticals here, Mr. Chairman. What is  
3361 clear to me is that the attorney general is having  
3362 difficulty knowing what terrorism means, and I think we  
3363 should take that into consideration when we consider this  
3364 amendment.

3365 And I guess from an overarching point of view, Mr.  
3366 Chairman, it is important to keep in mind what we are really  
3367 doing here. I know that there has been a lot of discussion  
3368 about eligibility and the time and place arguments. But  
3369 here is the bottom line. If I am driving in a State without  
3370 a driver's license, that is illegal for me to do, and I can  
3371 be punished for that. If I have a driver's license in  
3372 Arizona and go to New York, well, we have the reciprocity  
3373 there. I can drive in New York if I am otherwise doing  
3374 everything else that I am supposed to. But if New York  
3375 tomorrow said that anybody with a cleft lip cannot own a car  
3376 in New York -- now that might be something that the civil  
3377 libertarians might complain about that -- I would still be

3378 subjected to that law.

3379           So, the bottom line is, let us not get so far off into  
3380 hypotheticals that we lose sight of we are really trying to  
3381 do.

3382           Mr. Nadler. Would the gentleman yield?

3383           Mr. Franks. Reluctantly, yes.

3384           [Laughter.]

3385           Mr. Nadler. Thank you. Well, I will give you a  
3386 slightly less -- let us assume that Arizona had one standard  
3387 of vision for driver's licenses and New York had a more  
3388 strict standard of vision for driver's licenses, the New  
3389 York law would be enforced, in New York appropriately. But  
3390 we do not want to re-debate my previous amendment, which is  
3391 what you --

3392           Mr. Franks. Clarify the fallacy of your previous  
3393 amendment, sir.

3394           Mr. Nadler. All right. It is not because my previous  
3395 amendment would have allowed the New York law to be  
3396 enforced.

3397           But here with this amendment, we are simply saying  
3398 that we have the right to protect ourselves, even in the

3399 absence of a conviction, against likely dangers.

3400 Now, when the Attorney General was asked those  
3401 hypotheticals, I can give you an answer that, for example,  
3402 let us assume someone were trained in an Irish Republican  
3403 Army training camp, never committed anything, and before he  
3404 finished his training, they made the peace agreement, and  
3405 everything was fine, and nobody wanted no Irish versus  
3406 British terrorism was around anymore because they had a  
3407 peace agreement. That person is not going to be a  
3408 terrorist. So, there are conceivable circumstances.

3409 Now, how that is relevant to this amendment, I am not  
3410 sure.

3411 Mr. Franks. Well, reclaiming my time for the sake of  
3412 -- let me just congratulate you for having a clearer  
3413 understanding of what terrorism means than the Attorney  
3414 General. But unfortunately, he is going to be the one  
3415 enforcing the law here, and for that reason, I am a little  
3416 hesitant to support your amendment. So, I would encourage  
3417 my colleagues to join with me and vote no.

3418 And I yield back.

3419 Chairman Smith. Thank you, Mr. Franks. I did not

3420 know that I or the Attorney General was going to be quoted  
3421 so extensively, but I guess we can thank Mr. Scott for  
3422 reminding us of the value of previous testimony.

3423 We will now go to a vote on this amendment. And we  
3424 are going to consider just one more amendment after this  
3425 one.

3426 The question is on the amendment to the amendment.

3427 All in favor say aye?

3428 [Chorus of ayes.]

3429 Chairman Smith. Opposed, no?

3430 [Chorus of nays.]

3431 Chairman Smith. The clerk will call the roll?

3432 Ms. Kish. Mr. Smith?

3433 Chairman Smith. No.

3434 Ms. Kish. Mr. Smith votes no.

3435 Mr. Sensenbrenner?

3436 Mr. Sensenbrenner. Aye.

3437 Ms. Kish. Mr. Sensenbrenner votes aye.

3438 Mr. Coble?

3439 [No response.]

3440 Ms. Kish. Mr. Gallegly?

3441 Mr. Gallegly. No.

3442 Ms. Kish. Mr. Gallegly votes no.

3443 Mr. Goodlatte?

3444 [No response.]

3445 Ms. Kish. Mr. Lungren?

3446 Mr. Lungren. No.

3447 Ms. Kish. Mr. Lungren votes no.

3448 Mr. Chabot?

3449 Mr. Chabot. No.

3450 Ms. Kish. Mr. Chabot votes no.

3451 Mr. Issa?

3452 [No response.]

3453 Ms. Kish. Mr. Pence?

3454 Mr. Pence. No.

3455 Ms. Kish. Mr. Pence votes no.

3456 Mr. Forbes?

3457 [No response.]

3458 Ms. Kish. Mr. King?

3459 Mr. King. No.

3460 Ms. Kish. Mr. King votes no.

3461 Mr. Franks?

3462 Mr. Franks. No.

3463 Ms. Kish. Mr. Franks votes no.

3464 Mr. Gohmert?

3465 [No response.]

3466 Ms. Kish. Mr. Jordan?

3467 Mr. Jordan. No.

3468 Ms. Kish. Mr. Jordan votes no.

3469 Mr. Poe?

3470 Mr. Poe. No.

3471 Ms. Kish. Mr. Poe votes no.

3472 Mr. Chaffetz?

3473 Mr. Chaffetz. No.

3474 Ms. Kish. Mr. Chaffetz votes no.

3475 Mr. Griffin?

3476 [No response.]

3477 Ms. Kish. Mr. Marino?

3478 [No response.]

3479 Ms. Kish. Mr. Gowdy?

3480 Mr. Gowdy. No.

3481 Ms. Kish. Mr. Gowdy votes no.

3482 Mr. Ross?

3483 [No response.]

3484 Ms. Kish. Ms. Adams?

3485 Ms. Adams. No.

3486 Ms. Kish. Ms. Adams votes no.

3487 Mr. Quayle?

3488 Mr. Quayle. No.

3489 Ms. Kish. Mr. Quayle votes no.

3490 Mr. Amodei?

3491 Mr. Amodei. Mr. Amodei votes no.

3492 Mr. Conyers?

3493 Mr. Conyers. Aye.

3494 [No response.]

3495 Ms. Kish. Mr. Berman?

3496 [No response.]

3497 Ms. Kish. Mr. Nadler?

3498 Mr. Nadler. Aye.

3499 Ms. Kish. Mr. Nadler votes aye.

3500 Mr. Scott?

3501 Mr. Scott. Aye.

3502 Ms. Kish. Mr. Scott votes aye.

3503 Mr. Watt?

3504 Mr. Watt. Aye.

3505 Ms. Kish. Mr. Watt votes aye.

3506 Ms. Lofgren?

3507 Ms. Lofgren. Aye.

3508 Ms. Kish. Ms. Lofgren votes aye.

3509 Ms. Jackson Lee?

3510 Ms. Jackson Lee. Aye.

3511 Ms. Kish. Ms. Jackson Lee votes aye.

3512 Ms. Waters?

3513 [No response.]

3514 Ms. Kish. Mr. Cohen?

3515 [No response.]

3516 Ms. Kish. Mr. Johnson?

3517 Mr. Johnson. Aye.

3518 Ms. Kish. Mr. Johnson votes aye.

3519 Mr. Pierluisi?

3520 Mr. Pierluisi. Aye.

3521 Ms. Kish. Mr. Pierluisi votes aye.

3522 Mr. Quigley?

3523 Mr. Quigley. Aye.

3524 Ms. Kish. Mr. Quigley votes aye.

3525 Ms. Chu?

3526 Ms. Chu. Aye.

3527 Ms. Kish. Ms. Chu votes aye.

3528 Mr. Deutch?

3529 Mr. Deutch. Aye.

3530 Ms. Kish. Mr. Deutch votes aye.

3531 Ms. Sanchez?

3532 [No response.]

3533 Chairman Smith. The gentleman from Virginia?

3534 Mr. Forbes. No.

3535 Ms. Kish. Mr. Forbes votes no.

3536 Chairman Smith. The gentleman from Wisconsin?

3537 Mr. Sensenbrenner. Change my vote from aye to no.

3538 Ms. Kish. Mr. Sensenbrenner votes no.

3539 Chairman Smith. The gentleman from Florida, Mr. Ross?

3540 Mr. Ross. No.

3541 Ms. Kish. Mr. Ross votes no.

3542 Chairman Smith. The gentleman from Arkansas?

3543 Mr. Griffin. No.

3544 Ms. Kish. Mr. Griffin votes no.

3545 Chairman Smith. The gentleman from Pennsylvania?

3546 Mr. Marino. No.

3547 Ms. Kish. Mr. Marino votes no.

3548 Chairman Smith. The gentleman from Utah? Oh, you  
3549 already -- okay.

3550 Are there other members who wish to record their  
3551 votes?

3552 If not, the clerk will report?

3553 Ms. Kish. Mr. Chairman, 10 members voted aye, 19  
3554 members voted nay.

3555 Chairman Smith. The majority having voted against the  
3556 amendment, the amendment is not agreed to.

3557 We will now go to our last amendment that we will  
3558 consider today. And the gentlewoman from Texas, Ms. Jackson  
3559 Lee, is recognized to offer an amendment?

3560 If I as premature in recognizing the gentlewoman, I  
3561 can recognize her at another time.

3562 Ms. Jackson Lee. No, I am ready. I am trying -- what  
3563 are you saying?

3564 Chairman Smith. Are you ready to go? I think it  
3565 is --

3566 Ms. Jackson Lee. It is amendment number 463.

3567 Chairman Smith. Jackson Lee amendment 463, okay.

3568 The clerk will report the amendment?

3569 Ms. Kish. Amendment to the amendment in the nature of  
3570 a substitute to H.R. 822 offered by Ms. Jackson Lee, page 2,  
3571 line 20 --

3572 Chairman Smith. Without objection, the amendment will  
3573 be considered as read.

3574 [The information follows:]

3575

3576 Chairman Smith. And the gentlewoman is recognized to  
3577 explain her amendment?

3578 Ms. Jackson Lee. My apologies to the committee. I  
3579 was prepared, but I was asking a question, so thank you very  
3580 much.

3581 And my amendment speaks to, I believe, a common sense  
3582 approach. And before I do that, Mr. Chairman, I would like  
3583 to indicate that I was detained in another committee  
3584 hearing, and if I had been here for the roll call vote for  
3585 Nadler 461, I would have voted aye. And I would like that  
3586 placed in the record, unanimous consent.

3587 Chairman Smith. Okay. Without objection, that will  
3588 be made a part of the record.

3589 Ms. Jackson Lee. Thank you very much.

3590 My amendment has a simple premise to it and that,  
3591 again, hopefully appeals to the common sense approach of  
3592 States' authority on these gun laws. And the amendment is  
3593 to prevent individuals convicted of stalking from carrying  
3594 concealed loaded guns nationwide, I believe is an important  
3595 public safety measure.

3596 In addition, my amendment includes stalking or

3597 unlawful surveillance. Currently, Federal law prohibits  
3598 possession of guns by felons, but not by individuals  
3599 convicted of the crime of stalking or unlawful surveillance.  
3600 Some States have already chosen not to grant permits to  
3601 carry concealed loaded guns to individuals convicted of  
3602 dangerous misdemeanors.

3603         The amendment will raise rather than lower the  
3604 standard for the types of individuals who are able to walk  
3605 about our streets with a loaded concealed weapon.

3606         The measure before us today takes away a States' right  
3607 to set their own criteria because it allows individuals to  
3608 cross State lines if they have a concealed weapon permit  
3609 from another State.

3610         The gentleman from Illinois made the point that it  
3611 does not take into consideration different criteria, and as  
3612 I indicated in my discussion on Mr. Gohmert's amendment, it  
3613 does not take into consideration States who have not spoken  
3614 on the issue. There are at least 10 States that grant law  
3615 enforcement officials the broad discretion to deny permits  
3616 to carry concealed loaded guns based on an applicant's  
3617 record or other pertinent factors. In addition, 14 other

3618 States grant law enforcement officials limited discretion.  
3619 Further, at least 14 States requires applicants to show good  
3620 moral character.

3621 This amendment, again, will specifically provide a  
3622 higher standard. At least 12 States deny permits to people  
3623 convicted of stalking, although this is not an exhaustive  
3624 list. Those include Iowa, Louisiana, Wyoming, Pennsylvania,  
3625 Tennessee, Oklahoma, North Dakota, New York, Connecticut,  
3626 Michigan, Ohio, and Minnesota. None of these have a common  
3627 political philosophy, but they realize the challenge of, if  
3628 you will, that behavior and carrying a concealed weapon.

3629 Texas has a robust handgun concealed carry laws, and  
3630 these laws would only undermine the criteria established by  
3631 my home State, meaning the laws that we are presently  
3632 engaged in.

3633 Unlike in some States, in Texas, individuals who are  
3634 delinquent on child support payments, for example, tax  
3635 payments, or have defaulted on higher education loans, will  
3636 not be allowed to have a permit.

3637 So, it does differ from State to State, and I believe  
3638 that it is important to recognize some of the States' values

3639 in this.

3640 I need not say, because I know what my friends will  
3641 say, that it is guns in the hands of bad people that kill,  
3642 not guns. But the question is, we cannot go about with a  
3643 litmus test and find out who is a bad guy. Is the bad guy  
3644 the guy tragically in California that lifted a gun because  
3645 of a custody fight, probably had a good job, probably was an  
3646 upstanding citizen. The town itself had not had more than  
3647 two murders in five days. Now, they have eight murders  
3648 because someone had the right to carry a gun that was  
3649 probably a good guy. Guns do kill.

3650 And so, I would just suggest that this an amendment  
3651 worthy of consideration, and I ask my colleagues to consider  
3652 it.

3653 With that, I yield back my time.

3654 Chairman Smith. Thank you, Ms. Jackson Lee.

3655 The gentleman from Arizona, Mr. Franks, is recognized?

3656 Mr. Franks. Well, thank you, Mr. Chairman.

3657 Mr. Chairman, the crime of stalking, particularly when  
3658 accompanied by other aggravating circumstances, is a felon  
3659 in most States. And it means that people convicted of a

3660 felony stalking offense would be barred from possessing a  
3661 firearm under Federal law itself.

3662 18 U.S.C. Section 922 also prohibits people who are  
3663 subject to a restraining for stalking from possessing a  
3664 firearm during the pendency of that order. And any person  
3665 convicted of a domestic violence misdemeanor, which will  
3666 often accompany a stalking offense, are similarly barred.

3667 In essence, this amendment seeks to permanently bar  
3668 people from exercising a fundamental constitutional right in  
3669 situations that the State did not believe warranted a  
3670 felony. And I just urge my colleagues to join me in  
3671 opposing the amendment.

3672 Chairman Smith. Okay.

3673 Mr. Franks. And I yield back.

3674 Chairman Smith. And I thank Mr. Franks.

3675 Are there other members who wish to be heard on this  
3676 amendment?

3677 If not, the vote is on the amendment.

3678 All in favor, say aye?

3679 [Chorus of ayes.]

3680 Chairman Smith. Opposed, no?

3681 [Chorus of nays.]

3682 Chairman Smith. In the opinion of the chair, the no's  
3683 have it.

3684 Ms. Jackson Lee. Roll call.

3685 Chairman Smith. The amendment is not agreed to. A  
3686 roll call has been requested. The clerk will call the roll?

3687 Ms. Kish. Mr. Smith?

3688 Chairman Smith. No.

3689 Ms. Kish. Mr. Smith votes no.

3690 Mr. Sensenbrenner?

3691 Mr. Sensenbrenner. No.

3692 Ms. Kish. Mr. Sensenbrenner votes no.

3693 Mr. Coble?

3694 [No response.]

3695 Ms. Kish. Mr. Gallegly?

3696 Mr. Gallegly. No.

3697 Ms. Kish. Mr. Gallegly votes no.

3698 Mr. Goodlatte?

3699 [No response.]

3700 Ms. Kish. Mr. Lungren?

3701 Mr. Lungren. No.

3702 Ms. Kish. Mr. Lungren votes no.  
3703 Mr. Chabot?  
3704 Mr. Chabot. No.  
3705 Ms. Kish. Mr. Chabot votes no.  
3706 Mr. Issa?  
3707 [No response.]  
3708 Ms. Kish. Mr. Pence?  
3709 Mr. Pence. No.  
3710 Ms. Kish. Mr. Pence votes no.  
3711 Mr. Forbes?  
3712 Mr. Forbes. No.  
3713 Ms. Kish. Mr. Forbes votes no.  
3714 Mr. King?  
3715 Mr. King. No.  
3716 Ms. Kish. Mr. King votes no.  
3717 Mr. Franks?  
3718 Mr. Franks. No.  
3719 Ms. Kish. Mr. Franks votes no.  
3720 Mr. Gohmert?  
3721 [No response.]  
3722 Ms. Kish. Mr. Jordan?

3723 [No response.]

3724 Ms. Kish. Mr. Poe?

3725 [No response.]

3726 Ms. Kish. Mr. Chaffetz?

3727 Mr. Chaffetz. No.

3728 Ms. Kish. Mr. Chaffetz votes no.

3729 Mr. Griffin?

3730 Mr. Griffin. No.

3731 Ms. Kish. Mr. Griffin votes no.

3732 Mr. Marino?

3733 Mr. Marino. No.

3734 Ms. Kish. Mr. Marino votes no.

3735 Mr. Gowdy?

3736 Mr. Gowdy. No.

3737 Ms. Kish. Mr. Gowdy votes no.

3738 Mr. Ross?

3739 Mr. Ross. No.

3740 Ms. Kish. Mr. Ross votes no.

3741 Ms. Adams?

3742 [No response.]

3743 Ms. Kish. Mr. Quayle?

3744 Mr. Quayle. No.

3745 Ms. Kish. Mr. Quayle votes no.

3746 Mr. Amodei?

3747 [No response.]

3748 Ms. Kish. Mr. Conyers?

3749 [No response.]

3750 Ms. Kish. Mr. Berman?

3751 [No response.]

3752 Ms. Kish. Mr. Nadler?

3753 Mr. Nadler. Aye.

3754 Ms. Kish. Mr. Nadler votes aye.

3755 Mr. Scott?

3756 Mr. Scott. Aye.

3757 Ms. Kish. Mr. Scott votes aye.

3758 Mr. Watt?

3759 Mr. Watt. Aye.

3760 Ms. Kish. Mr. Watt votes aye.

3761 Ms. Lofgren?

3762 Ms. Lofgren. Aye.

3763 Ms. Kish. Ms. Lofgren votes aye.

3764 Ms. Jackson Lee?

3765 Ms. Jackson Lee. Aye.

3766 Ms. Kish. Ms. Jackson Lee votes aye.

3767 Ms. Waters?

3768 [No response.]

3769 Ms. Kish. Mr. Cohen?

3770 [No response.]

3771 Ms. Kish. Mr. Johnson?

3772 Mr. Johnson. Aye.

3773 Ms. Kish. Mr. Johnson votes aye.

3774 Mr. Pierluisi?

3775 Mr. Pierluisi. Aye.

3776 Ms. Kish. Mr. Pierluisi votes aye.

3777 Mr. Quigley?

3778 Mr. Quigley. Aye.

3779 Ms. Kish. Mr. Quigley votes aye.

3780 Ms. Chu?

3781 [No response.]

3782 Ms. Kish. Mr. Deutch?

3783 Mr. Deutch. Aye.

3784 Ms. Kish. Mr. Deutch votes aye.

3785 Ms. Sanchez?

3786 [No response.]

3787 Chairman Smith. Members who wish to record their  
3788 votes?

3789 The clerk will report?

3790 Ms. Kish. Mr. Chairman, 9 members voted aye, 15  
3791 members voted nay.

3792 Chairman Smith. Okay. The majority having voted  
3793 against the amendment, the amendment is not agreed to.

3794 The Judiciary Committee will stand in recess until  
3795 10:00 tomorrow morning. Look forward to seeing you then.

3796 [Whereupon, at 3:53 p.m., committee recessed, to  
3797 reconvene at 10:00 a.m., Friday, October 14, 2011.]