GENERAL LEAVE

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days within which to revise and extend their remarks on H.R. 1257, and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

SHAREHOLDER VOTE ON EXECUTIVE COMPENSATION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 301 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 1257.

□ 1720

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 1257) to amend the Securities Exchange Act of 1934 to provide shareholders with an advisory vote on executive compensation, with Mr. WEINER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Massachusetts (Mr. FRANK) and the gentleman from Illinois (Mr. ROSKAM) each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts.

□ 1720

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

This is a bill to further the workings of the capitalist system of the United States. It has one very specific provision. It says that the shareholders, the owners of public corporations, will be allowed to vote every year in an advisory capacity on the compensation paid to their employees who run the companies.

Now, Mr. Chairman, some might think this is unnecessary. In a better world, it would be. But there is not now any clear-cut, uniform, legal right for the shareholders to get such a vote. Some corporations allow it, some do not. Some boards of directors allow it, some do not. In a recent case, the SEC ordered AT&T to allow such a vote, but it was because of certain circumstances. There is no general principle that allows it.

We do have, thanks to the Securities and Exchange Commission under our former colleague from California, Mr. Cox, a provision that I am sure many considered to be an intrusion into the private affairs of corporations, because without regard to the wishes of the corporations, the SEC under Chairman Cox has unanimously adopted rules that require corporations to put in the annual proxy form a chart of compensation for the top officials and an explanation of the theory of the compensation by which they are there.

Understand that this is a decision by the SEC to require corporations to do what they would not otherwise have done, because it only applies to those who haven't done it.

We add one simple fact here. The SEC has said that it does not have the power to go further and compel corporations to allow the owners to vote. Our bill simply does that. Our bill simply says, you will have on your proxy form, printed anyway, what the compensation figures are. There is no debate about how they will be presented. We require, if this bill passes, corporations simply to add to that a box that says ''I approve/I disapprove,'' and you can check it as appropriate. And the sole expense to the corporation is the ink in printing ''approve'' or ''disapprove,'' and the tallying along with the other tallying. There is no additional paper, there is no additional anything else.

We have had a situation in which people, including the President of the United States, have acknowledged that in some cases CEO compensation has become excessive. I believe that that is clearly the case. A study done by Professor Lucian Bebchuk at Harvard, unrefuted by the defenders of the current corporate compensation system, notes that the amount of corporate profits going to the salaries for the top three employees, the compensation to the top three employees has about doubled to the point where a year or so ago it was nearly 10 percent.

We are talking about real money. We are talking about money that goes to these top executives that could be used for other purposes. For example, when Mr. Nardelli of Home Depot received a $210 million good-bye kiss that had been written into his contract, when he was fired and given a $210 million consolation prize, Home Depot was at the same time announcing that they were putting $350 million into improving the stores. Well, suppose Mr. Nardelli had been sent out into the cold, hard world with only $50 million for the rest of his life. $160 million more would have been available to add to that $350 million for the stores, considerably more than a third. In other words, that was a real number. If $350 million can fix up the stores significantly, another $50 million or $75 million could have increased that by up to 50 percent.

The President himself has acknowledged that the compensation has gotten out of hand. But from the standpoint of the President, excessive CEO compensation, increased inequality in our economy, which is a part of this, global warming, they all have certain common elements; the President and some of his supporters have reluctantly acknowledged the reality of those things, having denied them for some time, but they appear to regard them as facts of nature that were neither caused by nor can be corrected by human action. We disagree with that.

Now, people have suggested that the salaries are too high and Congress should limit them. We reject that. This bill as we have presented it does not intrude into the process of setting compensation.

Mr. Chairman, some of the amendments offered would do that. There are amendments that would alter the effect of this, depending on the kind and amount of compensation. I think those are erroneous. I think some of my friends on the other side have become, in their zeal to defend corporate compensation levels, de facto, in a bad situation. They would be more intrusive.

All we say is this: The shareholders own the companies, and we believe the shareholders should be allowed to vote.

Now, some people have said that is up to the board of directors, why are you singling out compensation for the CEO? And there is a good reason. You can make arguments about corporate governance one way or the other. We are not going beyond one point here. The relationship between the CEOs and the boards of directors is very different than most of the relationships the boards of directors have. The CEOs and the boards of directors select each other. There is a lack of an arm's length situation there that we think makes it appropriate to single it out and let the shareholders vote.

It is only an advisory vote, that is true, and you will hear the contradictory argument that we are both too intrusive and not sufficiently intrusive into the affairs of the corporations. But we have more confidence in the boards of directors than some of our colleagues. Not completely, or we wouldn't have this bill. But we do not think boards of directors will likely disregard an advisory opinion from the shareholders and, therefore, we think that is an important input that the board should have. They have their ultimate responsibility, and maybe they will find some special circumstance that says, we can't follow in this case. The shareholders own the company, and we are simply giving them this right.

The last point is, and we have heard people say, well, you are interfering with the affairs of the corporation. Corporations do not exist in nature; they are the creations of positive legislative action. No corporation anywhere has powers except those that are given to it by a government, and governments tell the corporations what powers they have, what immunities they have, and what rules they follow. The SEC just intruded very deeply into the affairs of corporations by requiring the posting of the compensation.

We say that under current rules, including some State laws, and it varies from State to State, the shareholders don't have enough rights. And all we do here is empower the shareholders to vote on the compensation of the people who work for them.

The last dogma I would deal with is, well, how can the shareholders know that? It is extraordinary to me, Mr. Chairman, to listen to people who ordinarily are quite respectful of the wisdom of the market. And what is the market? The market is the people who buy the shares. Those are the people who make up the market. And apparently this group of people who are the shareholders are in most respects quite wise. But when it comes to deciding how much to pay the people who work for them, they get stupid, and this is somehow beyond their capacity.

We disagree with that. We think this is a moderate and temperate approach to the issue of runaway compensation, excessive compensation, not in every case, and in every case it wouldn't be used negatively.

I should have said one other thing. No one has shown any correlation between these outsized compensation examples and any metric of success. Indeed, too often they are metrics of failure because they are payoffs to get people to leave quietly.

So we hope that this bill will be adopted and that shareholders who own the companies will have the right to express their opinion to the boards of directors on the level of compensation for the top employees of the company.

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

Mr. ROSKAM. Mr. Chairman, I yield myself such time as I may consume.

I rise, Mr. Chairman, in opposition to H.R. 1257. But first of all, I want to compliment the chairman and the ranking member who ran a very good process, had fruitful hearings, but nevertheless I think came up with a faulty product.

□ 1730

We all tend to sometimes argue in the alternative, picking and choosing those things that we want to focus on, and I find it ironic that the chairman has, in one way, this very, very high view of the marketplace and, in another way, demonstrates a fairly low view of the marketplace.

This is all about the level, Mr. Chairman, at which we choose to intervene. We saw the marketplace respond positively just a couple of weeks ago. Morgan Stanley, at their annual meeting, those shareholders decided not to take up this question of executive compensation. The same thing happened, Mr. Chairman, at the Bank of New York recently.

So what is the question before the House today? The question before the House is, when there is a difficult situation that comes forward, admittedly a difficult situation that the chairman recently called a fact of nature, and that is overly compensated executive employees, what does the House do? Does the House rush in?

I would suggest that the bill as presented currently is an overreaction. It is reaching in, and if we are going to be dabbling in this notion of executive compensation, Mr. Chairman, then I would suggest that we need to go all the way and try and take on other highly compensated employees.

What we will hear, I think, from the various speakers on our side of the aisle is trying to lay out a rationale, trying to lay out how we ought best to do this because I will tell you this. I think the great challenge before us as Members of the House is, how do we create the environment where people want to invest in our country, how do we create the environment where the best and the brightest among us want to go into public companies because I will suggest, Mr. Chairman, that the reaction of the past Congress or two on some of these things has unfortunately created an environment that is regulatorily very, very difficult, and it now creates among us the problem of people who say, look, it is simply not worth my time to go into a public company. I am one of the sharp ones; I am going to go into the private equities and so forth.

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

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. SCOTT), one of the most active members of our committee and a man with significant business experience.

Mr. SCOTT of Georgia. Mr. Chairman, thank you very much.

Let me first start by commending our chairman for taking on this very important and timely issue. This is an issue that speaks to the issue of confidence in the American enterprise system. There is no more greater issue that we need to deal with, and I think what the major point that we need to emphasize here is that there is a problem, and obviously there is a terrific problem. There is a terrific problem on several layers.

Let me start with the first layer. First of all, we have a problem where we have a stretch of the differences between what the average worker is making in the American economy and this huge leap by multibillions of dollars by what CEOs are making. This is not an aberration. This is a fact in case after case.

Plus, on top of that, none of these performances for these huge CEO packages are done based upon performance. As a matter of fact, some of the most outrageous demonstrations of this have been corporate CEO packages that have rewarded companies with hundreds of millions of dollars in their packages for a lack of performance, even while their company has been going down, even while their company has been laying off people, even as they have turned their backs on their pension obligations to employees. No, this is not an aberration, and there is a hue and a cry from the American people across the American landscape that is saying something must be done.

Now, we are the people's representatives, and what the chairman has put forward, and I certainly appreciate the chairman for allowing me to have an opportunity to work with him on this, what we are putting forward here is basically a fair and moderate response, no overreaction.

We have taken the marketplace with its basic components. What is the most important attribute of our system? It is the free marketplace. And what is the most important part of that? It is the exchange of stock ownership. And who plays that most important role there? It is the investor. Once that investor begins to lose confidence, we are all in a world of trouble.

There is nothing in our bill that mandates a certain salary level, none of that. Our bill simply says: Let us let the system work. What is wrong with ending these egregious characteristics of what is happening in the marketplace as far as CEO packages is concerned? It begs for the shareholders who own the company to at least have a say, a nonbinding say.

We understand the fragility of what we are doing. We are doing this in a gingerly manner. But let me just state to you in closing that all of the studies, and there will be some amendments which will come forward, some wanting to study this issue, some saying let the SEC rules work out, but what the American people and what the investor and what the situation cries out for are two things: transparency and accountability. That is the hallmark of what we are doing. We are bringing accountability, and we are bringing transparency to what is clearly, from all of the media accounts, from all of the evidence presented to us is clear, and it is dangerous, and it is present. What we have and what we are responding to is something that is clearly a clear and present danger to the future and the heart of our free economic system.

Mr. ROSKAM. Mr. Chairman, I yield 5 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman from Illinois for yielding, and I thank you, Mr. Chairman.

I rise in opposition to H.R. 1257, the Shareholder Vote on Executive Compensation Act, which seeks to ensure that shareholders have a say in their company's executive compensation and disclosures.

Let me just say that I agree with both the speakers on the other side so far. There is a problem with CEO and other high-level compensation in the United States. I happen to disagree with the solution which is offered by this legislation. In fact, I would urge that this solution probably will not be a solution. I would like to go through that if I could.

In July 2006, the Securities and Exchange Commission, the SEC, adopted a package of rules designed to enhance the transparency of proxy compensation disclosure for CEOs, CFOs and the other three highest paid executive officers and directors, the first major reform since 1992. These new disclosure

requirements are being implemented for the first time and are a major step forward in promoting transparency and arming shareholders with detailed information on how executives are being paid. Therefore, we are attempting to legislate in this area before there is any evidence to suggest that the current SEC robust disclosure requirements are not working.

The bill before us intends to prevent excessive executive compensation. Yet, at a Financial Services Committee hearing on March 8, all six witnesses agreed that a better way to prevent unmerited pay would be to require that publicly traded corporations adopt majority voting policies for the election of board members. At the present time, more than 150 stockholder proposals relating to majority voting have been filed, and more than half of the companies in the S&P 500 have some form of majority voting policy in place. Furthermore, company organization and structure is traditionally governed by State law, while Federal securities laws generally govern the disclosure of information to investors.

In my home State of Delaware, corporate laws are already providing shareholders with majority votes. Majority voting enables stockholders to more easily unseat directors they believe have made poor judgments. The law enables stockholders to focus on compensation committee members in particular if they so choose.

In addition, compensation for executives of publicly owned companies listed on the New York Stock Exchange is determined by a compensation committee that is composed of totally independent directors.

□ 1740

Clearly, the market and States are active in working in this area. H.R. 1257 intends to provide shareholders with an advisory vote on executive compensation. However, public company equity is overwhelmingly in the hands of intermediaries like retirement plans and mutual funds that manage the economic interests on behalf of others. Therefore, the actual shareholder is already two steps removed from the holders of the true economic interests in the company.

In addition, intermediaries often rely on advice, sellers like the Institutional Shareholder Services, ISS, when voting on company proxies. Consultants such as the ISS are often criticized for their particular biases and their lack of transparency in their decision-making.

It greatly worries me that this bill could set a precedent of giving activist institutional investors who may have their own political and social agendas unrelated to the financial wealth of the companies more influence.

This legislation presents a counterproductive change to an American approach to corporate governance that, while not perfect, has produced better results for stockholders than any other financial system in the world. I have an article written by Secretary Robert Reich about this, in which he, too, opposes the changes that are being proposed here.

He indicates, ''House Democrats are now working on legislation to give shareholders the right to have more say over pay.'' And that is a growing consensus, but he says it is wrong. Shareholders won't constrain the growth of CEO pay because most shareholders don't care about it. The vast majority own their shares through mutual funds and pension funds and don't know which companies they are invested in at any given moment. Then he says later, ''Depending on shareholders to rein in CEO pay is like relying on gamblers to rein in the owners of Las Vegas casinos.''

That is my concern with this. While we have identified the problem, the solution which has been identified in this legislation is not the right solution. The SEC recently enacted substantial new disclosure requirements, as I indicated, governing executive compensation to ensure transparent compensation packages, and these requirements should be given time to take effect. Disclosure is a vital component of our financial system, which increases investor confidence, promotes market discipline, encourages fairness in the U.S. markets and enables more informed decision-making by investors.

I believe there are many unintended consequences associated with the legislation before us today. Therefore, I urge my colleagues on both sides of the aisle to join me in opposing this legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, I will yield myself 1½ minutes.

I congratulate the gentleman on the high art of selective quotation, because he quoted from former Secretary Reich. He left out the thrust of the article which was, he was against doing this because instead he thought we could change the Tax Code. In fact, that article is mostly an attack on the tax cuts which the gentleman from Delaware supported.

Secretary Reich's article is essentially, and I will submit it for the RECORD under our general leave, I was waiting for the gentleman to quote those parts of Mr. Reich's article in which he calls for significant increases on taxation of upper-income people. I have to say to my friend, it is only a partial quotation.

Mr. CASTLE. Reclaiming my time.

Mr. FRANK of Massachusetts. I am on my time. I gave myself a minute.

The CHAIRMAN. The time has expired for the gentleman from Delaware. The gentleman from Massachusetts controls the time.

Mr. FRANK of Massachusetts. I was frankly waiting, and I was disappointed, but that happens a lot in life, for the gentleman to get to the part of the article that he quoted selectively in which that article says what you really want to do is make the tax system more progressive. I suppose the gentleman didn't want to quote criticism of tax cuts that he voted for, but it did seem to me, if we are going to be quoting things, Mr. Reich said not that he was opposed to this as a bad idea, but that a much better way to do it would be to undo the tax cuts that the gentleman from Delaware supported at the upper brackets.

Mr. Chairman, I would ask to insert in the RECORD the article by Robert B. Reich.

[From The American Prospect, April, 2007]

DON'T COUNT ON SHAREHOLDERS

(Robert B. Reich)

An acquaintance of mine sits on the board of a major company that just agreed to pay its CEO close to $10 million this year, including deferred compensation and stock options. I asked him how he and his board colleagues could possibly justify that kind of money. ''No choice,'' he said. ''That's what our competition is paying. It's the going rate.'' As Congress struggles to raise the minimum wage to $7.25 an hour, the going rate of CEO pay is now $5,000 an hour.

Polls show most Americans think this is obscene. But how to rein in CEO pay? A growing consensus believes the best way is to give shareholders more voice. New Securities and Exchange Commission rules require companies to inform shareholders in greater detail what their companies are paying top executives. In recent months, shareholder activists have submitted proposals to 60 companies seeking input on CEO pay. House Democrats are now working on legislation that would give shareholders the right to have more say over pay.

But the growing consensus is wrong: Shareholders won't constrain the growth of CEO pay, because most shareholders don't care about it. The vast majority own their shares through mutual funds and pension funds, and don't even know which companies they're invested in at any given moment. Their only concern is maximizing the return on their total portfolios. They keep the pressure on fund managers to do this by moving their savings from funds that underperform to those that show better overall results.

Fund managers, for their part, don't care much about CEO pay, either. They're looking for companies whose share prices are rising, and they push firms to get their prices up by shifting capital out of those whose prices are lagging into those that show more promise.

Presumably, shareholders and fund managers would want to constrain CEO pay if it hampered company performance, but it hasn't. While CEO pay has soared over the last 25 years, share prices have soared, too. Between 1980 and 2003, the average value of America's 500 largest companies rose by a factor of six, adjusted for inflation. What happened to average CEO pay in those companies? It rose roughly sixfold. Shareholders have no reason to complain. They don't—and they won't.

Depending on shareholders to rein in CEO pay is like relying on gamblers to rein in the owners of Las Vegas casinos. Just look at Britain. Since 2003, changes in British securities law have given investors there more say over what British CEOs are paid. Nonetheless, executive pay in Britain has continued to skyrocket, and now just about matches that of American CEOs. Companies listed on the London Stock Exchange have done sufficiently well that British investors don't care what CEOs are paid.

The real scandal of CEO pay has almost nothing to do with shareholders. It has to do

with what's happened to the pay of most other workers as CEO pay has soared. Shareholder returns have kept up with CEO pay, but median wages have not. In 1980, the CEO of a major company took home about 40 times what the median worker earned; by 1990, that CEO's pay was about 100 times the median worker's; in 2006, it was close to 300 times what the median worker earned. (Last year, Wal-Mart's Lee Scott Jr. earned 900 times the pay of the average Wal-Mart worker.)

CEO pay is part of a much larger problem: the growing portion of the nation's income that's going to a small number of people at the top. The pay packages of many denizens of Wall Street are even more outrageous than CEO pay—last year reaching $40 million for top traders and more than a billion dollars for top hedge-fund managers. The new stars of Wall Street are private equity funds that are buying public companies back from shareholders and raking in 20 percent to 25 percent annual returns for their private investors—mostly wealthy individuals with yearly incomes already in the stratosphere.

Not since the robber-baron era have income and wealth been as concentrated as they are today. This doesn't threaten shareholders; after all, most shares are held by the wealthy. It threatens democracy, as the wealthy use their fortunes to bankroll politicians who tilt public policies in the direction of the wealthy—by, say, reducing their taxes and cutting public services for everyone else. It also threatens our economy, as more and more investment decisions are made by fewer and fewer people, and as the middle class loses its capacity to pay for the goods and services the economy produces.

The answer is not to grant more rights to shareholders. It's to enact a far more progressive income tax, including a sharply higher marginal rate on yearly incomes above, say, a measly million.

Mr. ROSKAM. Mr. Chairman, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. In response to Chairman FRANK, I would just say, he is correct. We have not had that debate, by the way, on the progressive income tax rate. However, he opposes everything with respect to this legislation, leading up to that little squib at the end as to how he would fix that particular problem.

I personally think, as I have outlined here, there are many solutions to this: what the SEC has done, the majority election of directors, what the various States are doing and where this problem should be handled. For that reason, I would encourage us to look at a different method of addressing what you have identified, in my judgment a very real problem.

Mr. Chairman, I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I would say to the gentleman, I am baffled by this. On the one hand, this is too intrusive, but the gentleman says a better way would be to require corporations to elect directors by a majority. That would be a far greater intrusion into all of the aspects of the corporation.

But I will say this, if the gentleman prefers and the Members on the other side prefer: that we instead pass legislation that requires all corporations to allow a majority election for directors in an effective way as an alternative to nominations. Maybe we will hold off on this bill and consider it. I await that bill.

The gentlemen on the other side are all full of other solutions, none of which have ever been put to paper.

Mr. Chairman, I yield 6 minutes to the gentleman from Missouri (Mr. CLEAVER) a member of the committee and a great ethical expert.

Mr. CLEAVER. Mr. Chairman, today I rise in support of H.R. 1257, the Shareholder Vote on Executive Compensation Act. I think that it has been going on far too long where shareholders and, frankly, the American people, have had to pay for services not rendered and jobs not performed well.

The chairman of our committee, Chairman FRANK, has already spoken about Mr. Nardelli. There are others, Pfizer's Henry McKinnell, and he also received a $200 million, $200 million exit package in spite of the fact that his performance was poor. KB Home, former CEO, Bruce Karatz, could collect $175 million despite his involvement in backdating stock options at the company. Some CEOs were, in fact, undeserving of compensation packages they received. This is not fair.

The one that I think troubles most Americans the most is Lee Raymond, former CEO of ExxonMobil. During our committee hearing, I raised this issue with our panel to ask if they had any problems with the compensation package for Mr. Raymond. He received a $400 million pay and retirement deal as the prices of gasoline soared and millions of hardworking Americans going to the pump every single day are paying more and more money for gas.

Twelve years ago, when Mr. Raymond became the CEO of Exxon, the average price of gasoline was $1.02 a gallon. In June, 2006, when he retired, the price, the average price of gasoline was $2.96 a gallon. Yet he received $400 million in retirement. The people who are watching this debate, the overwhelming majority, will say to themselves, that is not right.

Now, during the same period of time that the CEO of ExxonMobil was building up for this great exit package, real wages for the average American worker actually declined. While I believe deeply in, and that prosperity is as American as apple pie, I don't believe that we should reward CEOs for doing a poor job.

So I want to thank committee Chairman FRANK and our ranking member, SPENCER BACHUS, and the members of the Financial Services Committee for bringing this bill forward to the floor today. I cosponsored this legislation, I voted for it in committee, and I will be voting for it when it comes to the floor.

Now, the sad thing about this legislation is that many hardworking Americans get up each day and go to work. If they perform poorly, they lose their job, and they certainly will not get an exit package that will take care of them and most of the people in their cities for life, $400 million.

I would ask the people watching this program, do you have a problem with that? The answer, I think, is echoing all around this country. Yes, I have a problem with that.

This bill enables shareholders to express their views on their company's executive compensation practices without setting up caps on the size and nature of executive pay. This legislation requires only, only, that public companies include on their proxy statements to shareholders, an annual nonbinding, nonbinding, nonbinding advisory shareholder vote on the company's executive compensation disclosures, which are already required by the SEC, and an additional nonbinding advisory vote if the company awards a new, not already disclosed, golden parachute while negotiating the purchase or sale of the company. The nonbinding advisory vote will give shareholders an opportunity, an opportunity to express themselves.

They can say ''yes'' or ''no'' to the proposed executive compensation without diminishing, reducing, interfering with the board's legal authority.

□ 1750

Ultimately, if a CEO is doing a good job, I am sure that that CEO will receive the support of that company's shareholders and the appropriate compensation package. That is the way America operates. But what is going on now is an abomination that we will allow people to run a company into the ground and then walk away set, not only for life for themselves but five or six generations to come.

Mr. ROSKAM. Mr. Chairman, just a couple of observations before I yield to my distinguished colleague.

You know, the gentleman from Georgia said that one of the goals of this legislation is that there be transparency and accountability. I would submit, I think there is a transparency and accountability in the current state of the law. The transparency comes in the disclosure of executive compensation, and the accountability comes in the ability to sell shares if you don't like it. That is a very, very, very powerful tool.

My friend from Missouri, the distinguished gentleman who spoke recently kind of criticized a number of individual CEOs. I'm not going to rise to their defense, and I don't think they really deserve defense. But it is an old adage of the law that if what we are doing is creating a statute toward an exception, we tend to make bad statutes.

What I would say is, look at the totality of what executive leadership has brought us. From 2002 to 2006, the market capitalization of American companies has risen to $8 trillion. That is something to celebrate and not something to criticize.

I yield 5 minutes to the gentleman from Texas (Mr. PAUL).

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

Mr. PAUL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to this bill. I happen to agree with all of the concerns expressed by those sponsoring the bill due to the inequities in the amount of money that some of the CEOs are getting. But I am also convinced that this particular piece of legislation won't do very much to help, and I am convinced that unless we deal some day with our monetary system and understand better how it participates in these inequities, we will never get a solution for this because the monetary system does play a role in this.

I am as outraged as anybody about a company that can hand out $16 billion in bonuses. But where my disagreement is, is that it is not as a result of free market capitalism; that it is the result of an economic system that we have today which is called economic interventionism, and it leads to these inequities.

Mr. Chairman, H.R. 1257 gives the Securities and Exchange Commission the power to force publicly traded corporations to consider shareholders' votes on nonbinding resolutions concerning the compensation packages of CEOs. Giving the SEC the power to require shareholder votes on any aspect of corporate governance, even on something as seemingly inconsequential as a nonbinding resolution, illegitimately expands Federal authority into questions of private governance.

In a free market, shareholders who are concerned about CEO compensation are free to refuse to invest in corporations that do not provide sufficient information regarding how CEO salaries are set or do not allow shareholders to have a say in setting compensation packages.

Since shareholders are a corporation's owner, the CEO and the board of directors have a great incentive to respond to shareholders' demands. In fact, several corporations have recently moved to amend the ways they determine executive compensation in order to provide increased transparency and accountability to shareholders.

Some shareholders may not care about CEO compensation packages. Instead, they may want to devote time at shareholder meetings to reviewing corporate environmental policies and ensuring the corporation has family-friendly workforce policies. If H.R. 1257 becomes law, the concerns of those shareholders will take a back seat to corporations attempting to meet the demands of Congress.

It is ironic to me that Congress would concern itself with high salaries in the private sector when, according to data collected by the CATO Institute, Federal employees on average make twice as much as their private sector counterparts. One of the examples of excessive compensation cited by the supporters of the bill is the multi-million dollar package paid to the former CEO of Freddie Mac. As a government-sponsored enterprise that, along with its counterpart Fannie Mae, received almost $20 billion worth of indirect Federal subsidies in fiscal year 2004 alone, Freddie Mac is hardly a poster child for the free market.

For the most part, all economic interventions fail and end up creating new problems that we are forced to deal with. This legislation, although well-motivated in an effort to deal with a very real problem, is unnecessary and should be rejected.

Past government actions have made it more difficult for shareholders to hold CEOs and boards of directors accountable for disregarding shareholder interests by, among other things, wasting corporate resources on compensation packages and golden parachutes unrelated to performance. During the 1980s, so-called corporate raiders helped keep corporate management accountable to shareholders through devices such as ''junk'' bonds that made corporate takeovers easier.

The backlash against corporate raiders included the enactment of laws that made it more difficult to launch hostile takeovers. Bruce Bartlett, writing in the Washington Times in 2001, commented on the effects of these laws, ''Without the threat of a takeover, managers have been able to go back to ignoring shareholders, treating them like a nuisance, and giving themselves bloated salaries and perks, with little oversight from corporate boards. Now insulated from shareholders once again, managers could engage in unsound practices with little fear of punishment for failure.'' The Federal ''crackdown'' on corporate raiders, combined with provisions in Sarbanes-Oxley disqualifying the people who are the most capable of serving as shareholder watchdogs from serving on corporate boards, contributed to the disconnect between CEO salaries and creation of shareholder value that is being used to justify another expansion of the regulatory state.

In addition to repealing laws that prevent shareholders from exercising control over corporations, Congress should also examine United States monetary policy's effects on income inequality. When the Federal Reserve Board injects credit into the economy, the result is at least a temporary rise in incomes. However, those incomes do not rise equally. People who first receive the new credit—who in most instances are those already at the top of the economic pyramid—receive the most benefit from the Fed's inflationist polices. By the time those at the lower end of the income scale experience a nominal rise in incomes, they must also contend with price inflation that has eroded their standard of living. Except for the lucky few who take advantage of the new credit first, the negative effects of inflation likely more than outweigh any temporary gains in nominal income from the Federal Reserve's expansionist polices.

For evidence of who really benefits from a system of fiat money and inflation, consider that in 1971, before President Nixon severed the last link of the American currency to gold, the typical CEO's salary was 30 times higher than the average wage of the typical employee; today it is 500 times higher.

Explosions in CEO salaries can be a sign of a Federal credit bubble, which occurs when Federal Reserve Board-created credit flows into certain sectors such as the stock market or the housing market. Far from being a sign of the health of capitalism, excessive CEO salaries in these areas often signal that a bubble is about to burst. When a bubble bursts, people at the bottom of the economic ladder bear the brunt of the bust.

Instead of imposing new laws on private companies, Congress should repeal the laws that have weakened the ability of shareholders to discipline CEOs and boards of directors that do not run corporations according to the shareholders' wishes. Congress should also examine how fiat money contributes to income inequality. I therefore request that my colleagues join me in opposing H.R. 1257 and instead embrace a pro-freedom, pro-shareholder, and pro-worker agenda of free markets and sound money.

Mr. ROSKAM. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL of California. Mr. Chairman, I thank the gentleman for yielding.

Let's stipulate here that there are and have been instances, plenty of instances, in which executive compensation has been excessive for the return given to shareholders.

I have spent my entire life investing, and there have been times when I have seen excessive executive compensation, and return for the company wasn't there. And it made me mad, and I wasn't happy about it. Let's stipulate to that.

Let's also understand there is a difference between that and when an executive gets high pay for a very excellent result. Pay for executives has been increasing, as it has for sports stars, as it has for people in the music business, authors, actors and investors.

Chairman Bernanke of the Federal Reserve, when he spoke before our committee and when he has spoken before other committees, has been quoted as saying this is, to a degree, because of the effective technology of being able to take the talents of these various people and make them more valuable because it spreads across the world much quicker.

But let's take that aside and stipulate that there have been instances, plenty of instances, where executive compensation has not been commensurate with the results. But there are a lot of other things that are more injurious to shareholders. There are other highly compensated individuals as well who have been overpaid for their jobs or for whatever they have done.

There have been union contracts that have been out of line. Let's take Ford Motor Company right now. People are objecting to the current compensation package of the new chairman of Ford Motor Company; but no one is suggesting that that pay package is going to bring Ford Motor Company under. People are not happy because they say Ford Motor Company isn't making money, and the chairman is getting too much pay, but no one is suggesting that is going to take the company

under. But what most observers say will take the company under is all of the retiree pay that they have due to union contracts that were inadvisable that were done some time ago. That may take the company under.

There could be acquisitions. There could be legal settlements. There could be just poor management. All of those things can actually take a company under, whereas executive compensation that is excessive, although maddening, won't drive a company down.

This bill does absolutely nothing to deal with any of those other problems. Why not? If we are worried about shareholders and care about shareholders and their ability to influence a company, then why don't we give them the right to influence the company on something that actually might bring the company down.

Some people on the other side mentioned several instances, and I can't recall them all right now, but where a company is doing poorly and an executive received very high pay. I agree with you; bad, I don't like it. I didn't like it. But what ought to upset the shareholders more is not the pay; it is the poor performance. And this doesn't do anything to help shareholders with that.

We should give shareholders more rights. I agree with that, through the board. Otherwise, why not let shareholders vote on other highly compensated individuals, on union contracts, on acquisitions, on legal settlements, on the marketing budget, on all kinds of others things that might have something to do with affecting the company's pay?

□ 1800

I believe this is a statement, not a solution.

Mr. FRANK of Massachusetts. Will the gentleman yield?

Mr. CAMPBELL of California. I am happy to yield to the gentleman from New York.

Mr. FRANK of Massachusetts. I am from Massachusetts, but I do want to report a theft, Mr. Chairman. Apparently someone has broken into our committee office and stolen a whole series of bills that the other side had to deal with all these other things, because I am hearing now about all these other things we should be doing and these other things that we should be addressing, and I haven't seen any of them.

So I want to say to people, unfortunately, all these wonderful ideas that you previously had, and I wouldn't suggest that you are only saying them now as an excuse to beat this bill, please send me copies, because somebody stole the ones you sent me.

Mr. CAMPBELL of California. Reclaiming my time, Mr. Chairman.

You saw an amendment in committee which you voted against and voted down. You will see that amendment again this evening that gives shareholders rights through the board, not just on executive compensation, if they are unhappy with the management for any reason, to work through the board and change the board, give them more rights to change the board rather than do this sort of thing.

Mr. Chairman, you will have your own time shortly, the gentleman from New York.

Mr. FRANK of Massachusetts. I am still in Massachusetts.

Mr. CAMPBELL of California. Did I say New York? I am sorry. The gentleman from Massachusetts.

The CHAIRMAN. I would remind both Members that there is a chairman from New York in the room.

Mr. FRANK of Massachusetts. And one is quite enough.

Mr. CAMPBELL of California. I thank the chairman so much for that clarification.

Mr. Chairman, this bill is a statement, it is not a solution. It deals with one thing which is annoying and can be bad, but is not a major, it is not that major an issue relative to all the other things that can deal with corporate governance and bringing corporations down.

Mr. FRANK of Massachusetts. Mr. Chairman, I would take 10 seconds to say that the gentleman from California mischaracterized his own amendment. No amendment he offered would expand shareholder rights. He did offer an amendment that said if there is a preexisting right to vote for the majority, then this bill does not apply. But no amendment he offered would expand existing shareholder rights.

Mr. CAMPBELL of California. Will the gentleman yield?

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

Mr. CAMPBELL of California. The amendment I wished to offer would simply have required that there be a majority.

Mr. FRANK of Massachusetts. What do you mean you wished to offer? I will take back my time.

Mr. CAMPBELL of California. It was ruled not germane.

Mr. FRANK of Massachusetts. I understand that, but let me just give myself 30 seconds.

Mr. Chairman, why didn't he file it as a separate bill? He had no interest in this that I could discover until we brought this bill up. The gentleman said he wanted to offer a nongermane amendment.

Well, you are allowed to introduce bills. Introduce a bill. We will have a hearing. If the gentleman, let me tell my colleagues right now, if they want to introduce legislation expanding the right of shareholders to vote for members of the boards of directors, I will guarantee them a hearing. But the bill has not yet been introduced.

Mr. Chairman, I yield 30 seconds to the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Chairman, I think it is very important for us to just take a look, very briefly, at what some of the executives, some of the companies are saying and are doing about this now, because I think it goes right to your argument.

Let us, first of all, let me just call to your attention, one such company, AFLAC, in Georgia. Now, AFLAC announced that it would give shareholders a nonbinding vote on executive compensation. As a matter of fact, AFLAC CEO Dan Amos said these words, which I want you to pay very important attention to. He said this. He said, as the owners of the company, the shareholders should know how executive compensation works.

Now, I think Mr. Amos is right on the money. He simply stated what I think a lot of other companies do in order to maintain integrity.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey (Mr. SIRES).

Mr. SIRES. Mr. Chairman, thank you for yielding me time, and thank you for your leadership on this legislation.

As an original cosponsor of H.R. 1257, I rise in support of this bill. CEOs should be held accountable to shareholders. Whether you have invested $100 or $100 million in a company as a shareholder, you should be allowed to find out the terms and conditions of the compensation package for the company's CEO.

Shareholders should also have the right to express their satisfaction or dissatisfaction over a proposed compensation package. And that is exactly what H.R. 1257 does. It allows shareholders a chance to share their opinion with the board, which will help grant boards pause before approving a questionable compensation package.

This bill does not represent a completely new idea. In fact, the United Kingdom has used a nonbinding shareholder vote approach since 2003. Australia has a similar system. Granting shareholders a say over executive compensation in these two countries has improved dialogue between executives and shareholders and has increased the use of long-term performance targets in incentive compensation. This policy change has clearly worked.

American companies have also started to take notice. Most recently, AFLAC adopted a nonbinding shareholder vote for its CEO's compensation package. In addition, Institutional Shareholder Services reports that 52 other companies are also considering adopting similar policies.

It is now time to grant shareholders in the United States the same rights as their British and Australian counterparts. We need to make sure that all companies take AFLAC's lead by passing H.R. 1257. I urge my colleagues to grant the shareholders more access to the process of forming an executive compensation package.

I urge a ''yes'' vote on this bill.

Mr. ROSKAM. Mr. Chairman, I yield myself 1 minute.

Just kind of a point of interest, and that is, in response to Chairman FRANK

calling, observing Mr. CASTLE's quotation. And I would just point out that the distinguished gentleman from New Jersey has been sort of selective, I think, in the attributes of England that he finds attractive. One of those that he didn't find attractive apparently is a loser-pay litigation system which would also maybe drive part of that debate.

Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Chairman, first, I thank the gentleman from Illinois for this time.

Mr. Chairman, if this bill was about Congress or the Federal Government setting salary levels for top executives, then I would be opposed to it. But that is not what this bill does. This is about letting stockholders, the owners of publicly traded companies, have the right, if they want, to render a judgment about whether the compensation for top executives, their employees, is appropriate.

I know that this bill is not perfect, but neither is the present system. Corporate directors and executives work for shareholders. I do not see how anyone can look at the present system where sometimes CEOs who have failed their shareholders are getting hundreds of millions of dollars of shareholder money, and then say with a straight face that it is bad for shareholders to be able to directly tell corporate directors what they think about these compensation packages.

Mr. Chairman, let me remind the House of a few of the outlandish compensation packages that have been made public: Home Depot CEO Robert Nardelli, total compensation for 2006, $131 million; Merrill Lynch CEO Stanley O'Neal, total compensation 2006, $91 million; AT&T CEO Edward Whitacre, Jr., total compensation for 2006, $69 million; Ford Motor Company CEO Alan Mulally earned $39.1 million for 4 months in 2006, $39.1 million for 4 months of work in 2006.

Mr. Chairman, numerous people in the Third District of North Carolina, which I have the pleasure and the privilege to serve, have spoken to me and expressed their concerns about these multimillion-dollar packages. Mr. Chairman, many people have said that America is losing its middle class, but in modern America, more and more middle-class families are becoming stockholders. In 1989, just 30 percent of American households owned stock. Today 52 percent of households own stock; 80 million Americans now own shares of directly held stock, mutual funds or 401(k) retirement plans.

□ 1810

The right to have an advisory vote would strengthen shareholders and strengthen the capitalistic system. Therefore, Mr. Chairman, I support this bill.

And, again, I thank the gentleman from Illinois for the time.

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

Mr. ROSKAM. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama (Mr. BACHUS), the ranking member.

Mr. BACHUS. Mr. Chairman, I thank the gentleman from Illinois for yielding.

The gentleman on the other side from Kansas City said that he had a problem with excessive executive compensation. And let me say this: I don't think there is a Member of this body in the majority or the minority who hasn't been outraged by what we judge by looking in the paper is a lavish, uncalled-for executive pay compensation. Some of them are indefensible. I would never try to defend them; nor should they be defended. And that is not what we are doing today.

At the start of this debate some 3 hours ago, I said, this debate is not about excessive executive compensation because by its very term, ''excessive executive compensation'' is excessive. The gentleman from Georgia said it. The gentleman from Kansas City said it. Our constituents are upset about it. And, in fact, last year, this Congress responded to concerns of shareholders, investors and our constituents and voters. And working with the SEC, the Securities and Exchange Commission, we said, you are going to have to disclose these salary compensations. You are going to have to put them out for public scrutiny. And those regulations are just now going into effect. And many of us look at it, and we are dismayed.

Now, we all have a problem with excessive executive compensation. But I think most of my constituents and I think most Americans also have a problem with something else. They have a problem with the Congress micromanaging or mandating what private corporations do. This debate is not about excessive executive compensation, which we all condemn. This bill is not about income inequities, which we all are concerned about. This legislation is about this Congress beginning to tinker and mandate and obligate corporate governance with a vote, not a vote that we say they can take, because today they can take such a vote. A shareholder can ask for such a vote on executive compensation. What this legislation does is it mandates, it requires, it obligates every publicly held corporation in this country to take a vote on their top executives, not just the CEO but the CFO and on down the line. Each shareholder, if this legislation passes, will each year vote on the compensation of all these executives.

And as so often happens in this body, when Congress begins to substitute its judgment for someone else's judgment, we have all kinds of problems that are created. I will predict today one of the problems will be that more companies will become privately held or closely held corporations. I will predict that hedge funds will grow, and they are already doing that, but this will just be gas on the fire. Publicly held corporations will be taken private by hedge funds. We will have private equity offerings. And all of a sudden, we don't have shareholders. We don't have a right to vote on compensation. We don't even have a right to own the assets of most American corporations.

Now, today I have all kinds of rights. One of the rights that the gentleman from California mentioned, and I have done this, I have owned stock in companies, and I have seen those companies, those boards of directors and those CEOs, capture most of the profits of those companies. I have seen them award excessive option awards. And what I have done is I have sold my stock, and I have gone on and owned another company where that didn't happen. I voted with my feet.

Now, the most successful corporations across this world are not in Australia. They are not in England. They are right here in America. And for over 100 years, we have allowed shareholders to bring proxies and ask for votes when they wanted to and by a certain majority get those votes. We have allowed that if the board of directors vote for excessive compensation today, shareholders have a right to put that board of directors on the road, and they have done that on cases. They have rescinded compensation packages. But whatever else you may disagree or agree with me, certainly you ought to be skeptical of the Congress of the United States, a Congress which does not allow the voters or our constituents to set our pay. They don't set our pay, but all of a sudden, we want the shareholders of corporations to actually vote on the pay of every executive. And we are mandating it. We are not just simply making it possible. It is possible today. It is more government intrusion. And, unfortunately, every time the government overreaches, the consequences don't come back to us in Congress. We will continue to earn a salary. We will continue to be up here. The consequences will be in these corporations, which are the drivers of our economy.

So, in closing, let's not confuse this as a debate on excessive executive compensation. Let's just all agree we don't like it. Let's all agree that we have given the SEC the right, and they publish these salaries. And as we have seen so often, there is criticism in the papers, criticism by shareholders and boards of directors taking action. But let's not substitute our decision, and let's not second guess. Let's not interject the Congress and have the Congress start telling shareholders that they have to, have to pass judgment on the salaries of all top management in every public corporation.

Mr. ROSKAM. Mr. Chairman, I yield myself the balance of my time.

I will insert into the RECORD three letters opposing this legislation by the

U.S. Chamber of Commerce, HR Policy Association and American Bankers Association.

THE ASSOCIATION OF SENIOR
HUMAN RESOURCE EXECUTIVES,
Washington, DC, April 18, 2007.

RE HR Policy Opposes H.R. 1257, Shareholder Vote on Executive Compensation Act.

Hon. SPENCER BACHUS,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE BACHUS: On behalf of the HR Policy Association, I am writing to urge you to vote no on H.R. 1257, the Shareholder Vote on Executive Compensation Act, when the House considers it this week. We believe that the bill will have significant negative effects on corporate governance and will not appreciably increase shareholder input into the executive compensation process.

HR Policy Association is a public policy advocacy organization representing the chief human resource officers of over 250 leading employers doing business in the United States. Representing nearly every major industry sector, HR Policy members have a combined U.S. market capitalization of more than $7.5 trillion and employ more than 18 million employees world wide. Our members are especially concerned that a shareholder vote would undermine the authority of the Board of Directors with respect to compensation and is unnecessary as a tool to increase communications with shareholders.

At the outset, it is important to note that last year, the U.S. Securities and Exchange Commission completed an overhaul of its executive compensation disclosure regulations. The full effect of these changes on executive compensation practices will not be known until after the 2009 proxy season, the first year in which companies will have to present three years of data. At a minimum, the House should defer any action on the legislation until after the effect of the new rules can be fully evaluated.

The Association believes that H.R. 1257 would seriously erode the authority of the Board of Directors to determine appropriate executive compensation levels. Under our system of corporate governance, the Board manages the company on behalf of the shareholders. In turn, the shareholders have the right to vote on strategic matters, such as mergers, and remove directors if they believe the corporation is not being managed in the shareholders' best interests. This delegation of authority is necessary because of the considerable amount of detailed and confidential information that Board members must consider when making decisions regarding corporate strategy and executive compensation. Providing a shareholder vote on compensation would be unprecedented because it would provide a referendum on the results of the Board's decision, rather than on a framework for making decisions, as occurs in the case of shareholder authorization for equity compensation or mergers.

More importantly, a shareholder vote would potentially open up other Board decisions to a shareholder vote, such as the decision to pursue merger talks or settle certain lawsuits, thus substantially slowing the ability of the Board to make quick decisions and undermining competitiveness.

Fundamentally, an advisory shareholder vote would not provide meaningful information to companies about the practices shareholders find objectionable. It is simply an up or down vote, with no explanation attached, leaving substantial questions about its meaning. Under current law, shareholders already may file advisory resolutions with any publicly held company seeking changes in specific executive compensation practices. There is no need for legislation adopting a mandatory framework that will have a negligible impact on most of the 15,000-plus publicly held companies.

Counter to arguments made in support of the bill, new mechanisms of communications between companies and shareholders are not necessary. Most large companies already hold periodic meetings throughout the year with their largest shareholders on a variety of subjects, including compensation.

In addition, the shareholder vote concept has been imported from the United Kingdom, but the U.K. regulatory and legal systems are substantially different from those in the U.S., and the results of a shareholder vote are likely to be fundamentally different. In the U.K. the two largest investors control roughly 30 percent of the market while in the U.S. ownership is more diffuse, making shareholder consensus much more difficult. The U.K. has voluntary corporate governance standards with less rigid standards for Board member independence, and Board members may avoid all liability with an advisory shareholder vote. In the U.S., Board members have fiduciary liability, and are subject to shareholder derivative actions, regardless of a shareholder advisory vote. The threat of litigation acts as a check on Board actions.

The U.K. shareholder vote requirement also has had significant negative effects that would negatively impact the management of U.S. companies. These effects include encouraging executives to seek positions with private equity firms; making pay arrangements more standardized, rather than customized to the company; increasing diligence among compensation committees similar to that already occurring in the U.S.; and, increasing the power of the proxy advisory services and hedge funds as institutional investors outsource their compensation research, engagement with boards and vote administration duties. These negative effects outweigh the benefits of a shareholder vote.

For all of these reasons, we oppose H.R. 1257 and encourage the House to reject it. If you have any questions, please do not hesitate to contact Tim Bartl of our staff at 202–789–8670. Thank you for your consideration.

Sincerely,

JEFFREY C. MCGUINESS,
President.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, March 27, 2007.

Hon. BARNEY FRANK,
Chairman, Committee on Financial Services, House of Representatives, Washington, DC.
Hon. SPENCER BACHUS,
Ranking Member, Committee on Financial Services, House of Representatives, Washington, DC.

DEAR CHAIRMAN FRANK AND RANKING MEMBER BACHUS: The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, is committed to supporting good and responsible capital market regulation, including efforts to strengthen board compensation committees and to provide disclosure of clearer information about executive compensation.

Fundamentally, the Chamber believes that well-functioning independent compensation committees, along with clear and fair disclosure, represent the best means to determine executive compensation. The amount and terms of employment and executive compensation agreements result from a complex interaction of interests. The negotiations of these interests can produce highly complex arrangements that reflect varying interests of the parties. Ultimately, corporate boards want to retain executives who will perform at a high level and produce value for shareholders and jobs for workers.

The Chamber respectfully submits that allowing shareholders—rather than the board—an advisory ''say on pay'' will not produce the intended result. Shareholder votes are more likely to reflect their views on past stock or management performance rather than real insight into how to structure future compensation to ensure it drives future results. Further, the Chamber is concerned that this would result in yet another forum for ''special interest politics.'' For these reasons, the Chamber opposes H.R. 1257, the ''Shareholder Vote on Executive Compensation Act.''

Sarbanes-Oxley has yielded significantly stronger and more independent boards and compensations committees. The Securities Exchange Commission has taken important steps recently to expand transparency and disclosure of executive compensation, and we believe that these steps need to be given adequate time to have an impact. The Chamber looks forward to working with Congress and the SEC to ensure that the combination of these steps is producing effective governance for shareholders and workers.

Sincerely,

R. BRUCE JOSTEN.

AMERICAN BANKERS ASSOCIATION,
Washington, DC, April 18, 2007.

Re H.R. 1257, shareholder vote on Executive Compensation Act.

Hon. BARNEY FRANK,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE FRANK: On behalf of the American Bankers Association (ABA), I am writing to express our opposition to H.R. 1257, the Shareholder Vote on Executive Compensation Act, which is scheduled for consideration on the House floor beginning today, with a final vote on Friday morning.

A major reason for our opposition is the fact that a majority of the corporations that would be impacted by H.R. 1257 will distribute their 2007 proxy statements to shareholders over the next three months. Rules recently adopted by the Securities and Exchange Commission (SEC) will now require these proxy statements to provide extensive narrative and tabular disclosures regarding CEO and other covered executives' salaries, stock awards, deferred benefits, retirement and severance packages, and perquisites. The ABA strongly believes that Congress should give the SEC's rules time to take effect and have an impact on boards and shareholders. After assessing the effect these disclosures have had on the marketplace, Congress can determine whether legislation is warranted.

Further, shareholder advisory votes may be appropriate where there are few mechanisms in place to protect the company. That is not the case in the United States. Boards and their compensation committees have legally enforceable fiduciary responsibilities to the company and its shareholders to ensure that company assets are not wasted. To properly carry out those responsibilities, a majority of board members must be independent and the compensation committees must consist solely of independent directors. Company boards and committees meet, without company management present, in executive session. Committee directors approve the CEO compensation that is to be recommended to the full Board based on the specific company's goals, various performance metrics and the terms of the CEO's employment contract. In this country, a combination of state corporate laws, exchange listing standards, and best practices tie

board accountability to shareholders on executive compensation and other issues that boards face.

Also, the bill has several unintended consequences that we wish to bring to Members' attention. First, the bill presumes that shareholders hold unanimous views on any given corporate issue, but this is frequently not the case. In fact, if this bill were to become law, a CEO of a publicly traded bank could find him or herself at the mercy of a * * *

Mr. Chairman, I sense that really our country is at a tipping point on a lot of questions, and you really sense this, those of us who were at home in our districts over the past couple of weeks. There are a lot of issues, and I know this is sort of an understatement, that are before this body that are issues where we are either going to make a good decision that will make us fruitful and prosperous and robust as a country or we have got the possibility to make a bad decision that puts us in the trajectory on a different direction. And I would suggest that this is one of those sort of tipping point questions.

Now, is the sun not going to rise tomorrow if this bill becomes law? No. The sun will rise tomorrow and we will be still a prosperous country. But it is one of those things that will have a ripple effect because, in the subtext of this bill, remember the chairman talked about facts of nature, the fact of nature is that, when there is an action, there is a reaction. And I would submit that one of the reactions of this bill, Mr. Chairman, is that there are going to be companies, there are going to be bright people that say, I am not going to take this company public. I am going to remain private.

□ 1820

Now, who loses with that? You know who loses? The individual shareholder. It is the mom and pop. It is the person that is struggling, that really wants to have access, but because it is a private company, they don't have access because it is not traded publicly.

What is the other effect? The other effect is that this basically tells many companies, why don't you figure out ways to go do business elsewhere? Why don't you go somewhere else? Because we are the Congress, and we are going to reach in and we are going to manage you. I just think we can do better.

Look, there is nobody here that is defending overly compensated CEOs, and I think the majority's proposal here is ironically very silent as to certain settlement agreements. It is inherent in the process that you settle cases to make them go away.

In closing, Mr. Chairman, I rise in opposition to this bill, and ask my colleagues to do the same.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just note in passing that I saw the letter from the Chamber of Commerce, and I was particularly struck that the Chamber of Commerce said we don't need this bill because Sarbanes-Oxley has been such a good law. Specifically, what they said was, Sarbanes-Oxley has yielded significantly stronger and more independent boards and compensation committees. So I think that the Chamber of Commerce's endorsement of the good results of Sarbanes-Oxley also ought to be made public here.

Mr. Chairman, I yield my remaining time to the gentleman from North Carolina (Mr. MILLER), a relatively senior Member. Not particularly the one I had in mind, but a very able and useful Member.

The Acting CHAIRMAN (Mr. ETHERIDGE). The gentleman from North Carolina is recognized for 5 minutes.

Mr. MILLER of North Carolina. Mr. Chairman, I disagree with my friend, Mr. BACHUS, who said this bill is not about income and equality. I think it is at least partly about income and equality. And I disagree with Mr. ROSKAM, who said that corporate executives, the CEOs, are responsible for the growth in the American economy, the increase in productivity in the American economy, and therefore they should be getting paid much more than they are.

Mr. Chairman, I think the American worker is not getting enough credit for the growth in the American economy, for the increase in the productivity of the American economy. They are not getting enough credit on the floor of this House tonight, and they aren't getting enough credit in their paychecks, in how they are compensated, and there is a widening gap.

It has never been a particularly small gap in this country. Fifteen years ago, the average CEO, the typical CEO, made 140 times what the average American worker at that corporation made. Now, 15 years later, it is 500 times what they make. It is a significant part of what the corporation makes overall; it is now 10.3 percent. The aggregate compensation of the top five executives is now 10.3 percent of the corporate profits of major corporations, public corporations in America. That is twice what it was 15 years ago.

Yes, top corporate executives, CEOs, are getting more and more of the benefit of the growth in productivity and the profitability of corporations, and it is wildly out of alignment with what they are doing, how well they are leading the corporations.

In fact, if you allow shareholder democracy, if you let shareholders have a say in how corporate executives are paid, because it is, after all, their company; they are going to insist that corporate performance be in alignment with corporate executives.

We don't have shareholder democracy now, Mr. Chairman. This bill begins to get at that. But right now CEOs pick the boards of directors, the boards of directors pick the CEOs, they answer to each other, they don't answer to the shareholders.

What we are considering now is very similar to what Great Britain has had for about 5 years, and it has worked pretty well in Great Britain. It has inhibited outrageous pay packages that have gone to CEOs and top executives in Britain.

Here is what is happening: The boards of directors know that they are going to have to explain themselves. They are going to have to explain themselves to shareholders. They are going to have to tell shareholders exactly what the compensation is, and they are going to have to explain what it is and what they have done.

That has inhibited what they have done. And they have gone back to the CEOs and said to the CEOs, look, we know you are worth every penny of what you are asking. But you know what a Bolshevik rabble our shareholders are. We will never be and to explain it to them. So they scale it back a little bit. And executive compensation in Great Britain has not gone up in the last 5 years the way it has in the United States, and the performance of Great Britain's corporations has been every bit as strong as what we have had here.

Mr. Chairman, if we let corporate shareholders vote, if we allow corporate democracy, they are going to insist, they are not going to throw out every pay package. In fact, it has only happened one time in England in the 5 years. GlaxoSmithKline was embarrassed pretty badly, and they went back and they renegotiated their pay compensation for their CEO. But it has inhibited their conduct, and shareholders have voted for very generous pay packages where it is justified by the performance of the corporate executives.

This bill makes a very modest change. But by simply requiring corporate boards of directors to explain what they are doing, to say right out in front of God and everybody what they are paying the CEO and why they are paying him that much, it has had an important change in corporate conduct in Great Britain, and it should here as well.

Mr. Chairman, I yield back the balance of my time to Mr. FRANK.

The Acting CHAIRMAN. The gentleman from Massachusetts has 30 seconds remaining.

Mr. FRANK of Massachusetts. Mr. Chairman, I would just say I also want to welcome this renewed faith that I have heard from my colleagues in the American corporate system. Recently corporate America and financial America has been lamenting how badly we regulate compared to England.

We have heard from the Paulson Committee, so-called after the Secretary of the Treasury, we have heard from the Chamber of Commerce, we have heard from the McKinsey report that we should be more like England. I am glad now to have this affirmation that even with Sarbanes-Oxley that the Chamber of Commerce praises so loudly, even with the Securities and Exchange Commission apparently not being the FSA, the American system

still works. That is a good counter to some of what we have heard lately.

Mr. MARKEY. Mr. Chairman, the ''Shareholder Vote on Executive Compensation Act'' is a bill whose time has come, and I am pleased to rise in strong support of this important legislation.

According to the Congressional Research Service (CRS), in the past ten years, CEO pay has more than doubled, and the ratio of median CEO pay to worker pay has risen to 179 to 1. The escalation in executive pay raises significant issues, including the equity of widening income disparities and the potential that such extraordinary CEO salaries may be a result of inefficient labor markets. The bill before the House today provides a balanced, pro-market approach to this addressing issue. Specifically, the nonbinding advisory vote mandated in this bill will give shareholders a mechanism for supporting or opposing their company's executive compensation practices without diminishing the board's legal authority. Such a vote will signal to the board, without tying its hands, that the individuals who actually own the firm will hold the board accountable for CEO pay packages, which should give board members some pause before approving excessive compensation plans.

H.R. 1257 does not cap, limit or change any CEO's pay. Rather, it simply requires that shareholders have a ''nonbinding'' say on their company's salary decisions. Moreover, the SEC already requires companies to disclose compensation. The SEC's recent executive compensation disclosure rules already require that companies disclose their compensation packages in their annual proxy. The annual vote requirement simply requires that companies add a line to that disclosure permitting shareholders to approve or disapprove the compensation packages and also tally the votes. Shareholders are the owners of our Nation's public companies. They should have the right to vote on the compensation packages for companies' senior officers.

The cost to businesses complying with the bill's provisions would be minimal. In fact, CBO estimated that costs from the annual vote would fall well below the annual threshold for private sector mandates—that is, below $131 million in 2007 for the entire country. This is a tiny, and worthwhile, cost that is more than offset by the significant benefit it provides shareholders by enabling them to have their voices heard in the board room. Additionally, businesses are provided more than enough time to make the logistical arrangements necessary for the nonbinding advisory vote, as it would not be required until the 2009 proxy season.

The nonbinding vote has been used successfully in other countries. For example, the nonbinding advisory vote approach has been used in the United Kingdom since 2003 and is now used in Australia, without impeding economic activity in any way. To the contrary, the policy change is credited with improving management-shareholder dialogue on executive compensation matters and increasing the use of long-term performance targets in incentive compensation. In the United States, the nonbinding advisory vote on CEO pay recently was adopted voluntarily by Aflac, and is currently pending before numerous U.S. public companies.

I commend my colleague from Massachusetts, BARNEY FRANK, the Chairman of the House Financial Services Committee for bringing this important bill to the Floor today and urge an ''aye'' vote.

Ms. JACKSON-LEE of Texas. Mr. Chairman, rise in strong support of this legislation. The average American has lost faith in corporate America. The typical consumer perceives these corporations as mighty entities who control this very floor that we speak on, ensuring that the corporations have their needs met at the expense of your average American. However, as members of Congress we represent middle class America, and we have to ensure that their interest are protected and addressed with fair and thoughtful legislation. That is why I am pleased to offer my support to H.R. 1257.

As the average pay for non-management workers remains stagnant, corporate executives have enjoyed hefty pay raises. These payouts include the CEO's salary, expense accounts, stock shares, and retirement packages. The underlying legislation does not seek to punish these CEO's, or take from them what they have received. However, this legislation does hold accountable the board members responsible for making decisions on executive compensation although it does not take away their power.

This legislation is about transparency. Transparency leads to trust which leads to consumer confidence, which means our economy will benefit in the long run. As Justice Brandeis said long ago, ''sunshine is the best disinfectant.

Some may argue that the rise in salaries is in response to a competitive job market with very few qualified individuals. In part that may be true, but this is about protecting the shrinking middle class in a society where the rate of inflation and the cost of living has increased.

To my colleagues who oppose this legislation, I ask that you seriously reconsider. In the end we have more to gain when corporations are forthright with business practices, especially as it pertains to executive compensation. The SEC has responded to this issue by revising its disclosure rules regarding executive compensation, but it is not enough. A publicly held corporation owes it to their shareholders, i.e., its investors to give them some type of consideration regarding executive compensation. Many middle class Americans have their 401(k) plans tied into stock options, thus they have a vested interest in what is occurring behind the closed doors of corporate America.

I support H.R. 1257, I support middle class America, and I encourage my colleagues to do the same.

The Acting CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 1257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Shareholder Vote on Executive Compensation Act''.

SEC. 2. SHAREHOLDER VOTE ON EXECUTIVE COMPENSATION DISCLOSURES.

(a) AMENDMENT.—Section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

''(h) ANNUAL SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.—

''(1) IN GENERAL.—Any proxy or consent or authorization for an annual or other meeting of the shareholders occurring on or after January 1, 2009, shall permit a separate shareholder vote to approve the compensation of executives as disclosed pursuant to the Commission's compensation disclosure rules (which disclosure shall include the compensation discussion and analysis, the compensation tables, and any related material). The shareholder vote shall not be binding on the board of directors and shall not be construed as overruling a decision by such board, nor to create or imply any additional fiduciary duty by such board, nor shall such vote be construed to restrict or limit the ability of shareholders to make proposals for inclusion in such proxy materials related to executive compensation.

''(2) SHAREHOLDER APPROVAL OF GOLDEN PARACHUTE COMPENSATION.—

''(A) DISCLOSURE.—In any proxy solicitation material for an annual or other meeting of the shareholders occurring on or after January 1, 2009, that concerns an acquisition, merger, consolidation, or proposed sale or other disposition of substantially all the assets of an issuer, the person making such solicitation shall disclose in the proxy solicitation material, in a clear and simple form in accordance with regulations of the Commission, any agreements or understandings that such person has with any principal executive officers of such issuer (or of the acquiring issuer, if such issuer is not the acquiring issuer) concerning any type of compensation (whether present, deferred, or contingent) that are based on or otherwise relate to the acquisition, merger, consolidation, sale, or other disposition, and that have not been subject to a shareholder vote under paragraph (1).

''(B) SHAREHOLDER APPROVAL.—The proxy solicitation material containing the disclosure required by subparagraph (A) shall require a separate shareholder vote to approve such agreements or understandings. A vote by the shareholders shall not be binding on the board of directors and shall not be construed as overruling a decision by such board, nor to create or imply any additional fiduciary duty by such board, nor shall such vote be construed to restrict or limit the ability of shareholders to make proposals for inclusion in such proxy materials related to executive compensation.''.

(b) DEADLINE FOR RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Securities and Exchange Commission shall issue any final rules and regulations required by the amendments made by subsection (a).

The Acting CHAIRMAN. No amendment to that amendment shall be in order except those printed in the portion of the CONGRESSIONAL RECORD designated for that purpose in a daily issue dated April 17, 2007, or earlier, and pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or his designee and shall be considered read.

AMENDMENT NO. 1 OFFERED BY MR. BACHUS

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BACHUS:

Page 4, beginning on line 8, strike ''Section 16'' and insert ''Section 14'', and on line 11, strike ''(h)'' and insert ''(i).

Mr. BACHUS. Mr. Chairman, as has been said during this debate, this legislation amends the 1934 Securities and Exchange Act, and it seeks to amend section 16. Section 16 covers reports by officers, directors and owners of 10 percent or more of the equity of a corporation and requires them to disclose certain equity positions. Section 14 of that act, on the other hand, deals with proxy statements and shareholder votes.

Quite simply, this legislation requires a corporation, the shareholders of a corporation, to take a vote on the executive compensation of the top five or six executives, and therefore this legislation more appropriately ought to be placed under section 14.

I want to thank Chairman FRANK. I noted that it was more appropriately placed in section 14. He offered an identical amendment moving it to section 14 also, and has allowed me the courtesy of actually offering my amendment, as opposed to his amendment, which I think is just further evidence during the committee hearing on this issue and in the floor debate of his willingness and openness to fully discuss, fully debate and allow the minority to have participation in this debate. So I commend him for doing that.

Mr. Chairman, I would simply move that we reorder this legislation and place it more properly in section 14 of the act.

The SEC supports my amendment, and I urge its adoption.

□ 1830

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words to first thank the gentleman from Alabama for his kind remarks about the way we have been working together in committee. I would just say that I have too recently been in the minority to be abusive. I hope that will last. I certainly intend it to. I am told, by the way, by our Parliamentarian, who, as the gentleman knows, was the Parliamentarian when the other side was in the majority, we have already had more rollcalls in committee in this year than we have had in the previous congressional session. While we have been moving a lot of bills and we have been able to do it expeditiously, I think we've aired a lot of issues, on this particular case, members of the minority made this suggestion, and it is a plausible one. It improves the bill. I realize that they still don't like it, but I appreciate this constructive spirit, and so I urge adoption of the amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. BACHUS).

The amendment was agreed to.

AMENDMENT NO. 12 OFFERED BY MR. ROSKAM

Mr. ROSKAM. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. ROSKAM:

Page 4, line 13, strike ''IN GENERAL'' and insert ''ANNUAL VOTE''.

Page 4, beginning on line 14, strike ''or other meeting of the shareholders'' and insert ''meeting of the shareholders (or a special meeting in lieu of the annual meeting)''.

Page 5, beginning on line 7, strike ''or other meeting of the shareholders'' and insert ''meeting of the shareholders (or a special meeting in lieu of the annual meeting)''.

Mr. ROSKAM. Mr. Chairman, I have offered this amendment to clarify some possibly misleading language in H.R. 1257, and it simply strikes ''or other meeting of the shareholders'' and inserts ''meeting of the shareholders or a special meeting in lieu of the annual meeting,'' at page 4, line 14 and page 5, line 7. The bill would allow, as we have discussed, a separate, nonbinding shareholder vote to approve the compensation of executives for any proxy, consent or authorization for an annual meeting. As currently drafted, the language in the bill asserts that this would be an annual meeting or other meeting of the shareholders. This language could potentially lead to allowing multiple nonbinding shareholder votes throughout the year instead of just at the annual or special meeting in lieu of the annual meeting, and, therefore, clarification of this language is needed. Hence, the reason for the amendment.

My concern is that if the current language were to be placed into law, that multiple votes would be forced to be taken throughout the year which would distract the board and the executives from their primary responsibility, that is, ensuring that they put in place good business practices that benefit the shareholders' investment instead of being distracted multiple times by a whole host of votes.

The greater concern would be that these potential multiple votes would ensure fiscal and business priorities are not in the forefront of the board members' minds, ultimately having the ill effect on global competitiveness of American business. I spoke to the chairman earlier, and I believe that it's a noncontroversial request to clarify language.

I urge all of my colleagues to support the amendment.

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

The gentleman from Illinois has accurately described this, and I urge its support.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ROSKAM).

The amendment was agreed to.

AMENDMENT NO. 4, AS MODIFIED, OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I rise to offer amendment No. 4 and to make a unanimous consent request to modify it.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. FRANK of Massachusetts:

Page 4, line 13, strike ''IN GENERAL'' and insert ''ANNUAL VOTE''.

Page 4, beginning on line 14, strike ''or other meeting of the shareholders'' and insert ''meeting of the shareholders (or a special meeting in lieu of the annual meeting)''.

Page 4, line 16, strike ''shall permit'' and insert ''shall provide for''.

Page 4, line 22, insert ''the corporation or'' after ''binding on''.

Page 5, beginning on line 7, strike ''or other meeting of the shareholders'' and insert ''meeting of the shareholders (or a special meeting in lieu of the annual meeting)''.

Page 6, line 3, strike ''shall require'' and insert ''shall provide for''.

Page 6, line 6, insert ''the corporation or'' after ''binding on''.

The Acting CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 4 offered by Mr. FRANK of Massachusetts:

Page 4, line 19, strike ''shall permit'' and insert ''shall provide for''.

Page 4, line 25, insert ''the corporation or'' after ''binding on''.

Page 6, line 5, strike ''shall require'' and insert ''shall provide for''.

Page 6, line 8, insert ''the corporation or'' after ''binding on''.

Mr. FRANK of Massachusetts (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

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

There was no objection.

The Acting CHAIRMAN. Without objection, the amendment is modified.

There was no objection.

Mr. FRANK of Massachusetts. I appreciate the other side going into their non-objectionable mode, at least for the nonce.

I did this because I had an amendment that included several provisions, one of which was identical to the provisions the gentleman from Illinois just offered, and that having been adopted, it would be redundant to do it again. This is, again, I believe, a technical amendment. It simply tries to conform the language in the bill with regard to what it requires.

I think the best way to say it, Mr. Chairman, is this. There was disagreement on the substance of what we require. We did want to make it clear, however, that we weren't requiring any more than that, and any suggestion that we might have been creating procedural or other kinds of obstacles, we wanted to work together to avoid. This is in furtherance of that, so I ask that the amendment be adopted.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. FRANK), as modified.

The amendment, as modified, was agreed to.

AMENDMENT NO. 6 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Ms. JACKSON-LEE of Texas:

Page 6, line 13, strike the close quotation marks and following period and after such line insert the following new paragraph:

''(3) WEBSITE DISCLOSURE OF VOTE.—Not later than 30 days after the votes provided for in paragraphs (1) and (2)(B) are counted, the issuer shall post the results of such vote in a prominent location on the issuer's Internet website (if the issuer maintains an Internet website).''.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me thank the chairman of the full Committee on Financial Services and the ranking member. Let me answer, in the course of debating or discussing this amendment, a question that was raised in debate earlier today, and it made the point that nothing is being done. Let me make a resounding point of opposition to that statement and say, yes, something is being done. It is making the shareholders of America stakeholders in the major corporations of America. It's making them relevant. It's making them equal, if you will, to those who make decisions about the termination of employees, the direction of business, and yet have no input from the holders of the company on the compensation of the chief executive.

This is a positive step in the right direction. It is a light at the end of the tunnel. And I say that because most recently we heard of the most shocking termination of large numbers of employees of Citicorp. But some 24 hours later, we heard a small voice say that also the CEO would be looking to cut his compensation to let the shareholders know and the employees know that he, too, would experience the pain of cutbacks.

My amendment simply augments this legislation by suggesting, or requiring, that the votes that were taken by the shareholders be actually posted. So even though this is a nonbinding vote, all might be able to see. And I know that there are certainly other means of reporting this particular vote count, but I think it would be important to do so.

Now, let me indicate that I want this bill to pass, and frankly, I want to find every way that we never have an Enron or WorldCom where individuals such as a Mr. Fastow had an enormous latitude of salary but wasn't worried about bringing the company down. I want to work with this committee as we move forward.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I would be happy to yield to the distinguished gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentlewoman. She is, as always, a staunch defender of her constituents, including those who were hurt by Enron.

I could not object to this in principle, and I did say this. We made an effort to make this bill minimally intrusive. I would expect that these votes would be promptly published. But the gentlewoman has a legitimate concern, and I would make this commitment to her: If this bill becomes law and we encounter any effort not fully and promptly to publish these, then I promise her an immediate hearing and action on her amendment.

So I think we will take this, I hope, as a chance to give people the message, if this bill becomes law, it should be complied with forthrightly and effectively; and if we encounter any efforts at any kind of obfuscation, then the gentlewoman, I promise her, will be back on the floor with our support.

Ms. JACKSON-LEE of Texas. Reclaiming my time, let me indicate in conclusion my desire to work with this committee, particularly since such a great impact has been experienced by those in the Houston area and certainly around the country.

With that in mind, my intent was, of course, to further enhance the rights of stakeholders and shareholders. I look forward to working with the chairman and more importantly look forward to the compliance when this bill becomes law so that all are, if you will, in concert with the prompt and efficient leadership of America's corporations.

Thank you for the opportunity to speak on my amendment to H.R. 1257, the ''Shareholder Vote on Executive Compensation Act.'' My amendment is a step towards transparency.

By requiring the company to post in a prominent place, on the company's website the results of any shareholder votes on executive compensation, shareholders, consumers, and the general public will regain their confidence in corporate America.

My amendment is non-controversial and makes sense, and its Shareholders, employees, vendors, and the public have a vested interest in transparency, especially in light of the numerous corporate scandals that have occurred in recent years.

I urge my colleagues to support this legislation. Executive salaries have risen dramatically, while the average American worker continues to struggle.

My amendment and the underlying bill will hold board members accountable for their decisions regarding executive compensation. While many on the other side of the aisle have mentioned unintended consequences in their objection to this legislation, I will mention the real consequences. The real consequence of passing this legislation along with my amendment is the positive message we will send to the American people. That message is that we, Members of Congress are more concerned with the problems facing the struggling middle class than we are in helping corporate CEO's hide the amount of their compensation from the American people. I urge you to support my amendment.

Mr. Chairman, I ask unanimous consent to withdraw this amendment.

The Acting CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

□ 1840

AMENDMENT NO. 13 OFFERED BY MR. SESSIONS

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

The ACTING CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Mr. SESSIONS:

Page 6, line 13, strike the close quotation marks and following period and after such line insert the following new paragraph:

''(3) DISCLOSURE OF ACTIVITIES TO INFLUENCE VOTE.—Notwithstanding paragraphs (1) or (2)(B), a shareholder's vote shall not be counted under such paragraphs if the shareholder has spent, directly or indirectly, more than a de minimis amount of money (as determined by the Commission) on activities to influence a vote of other shareholders, unless such shareholder discloses to the Commission, in accordance with rules prescribed by the Commission—

''(A) the identity of all persons or entities engaged in such a campaign;

''(B) the activities engaged in to influence the vote; and

''(C) the amount of money expended on such a campaign.''.

Mr. SESSIONS. Mr. Chairman, my amendment would, very simply, provide sunshine and transparency for shareholders so that there is full disclosure about who is financing efforts to influence their vote on this new congressionally mandated, nonbinding shareholder resolution. Let me give an example of a substantially similar disclosure requirement that every Member of this body understands, because it is already a current practice.

As Federal candidates, we are each obligated to disclose to the Federal Election Commission the name, occupation and amount given from each of our donors. These funds can then be used for FEC-approved campaign purposes. We require this, as well as we create caps for the amount that can be donated over a legislation cycle, because public interest is advanced by letting those who cast votes for their Members of Congress know who funds these campaigns.

My amendment would not limit the amount that can be spent like the FEC does for political contributions on the amount that people or organizations like labor bosses, environmental groups or consumer advocates spend on influencing this new mandatory nonbinding vote.

The purpose of this amendment is not to impede the ability of organizations to influence this vote. If they hold shares in stock, they would be willing to express their desires. The point of this amendment is simply to provide voters, in this case, shareholders, with access to information about who is spending money to influence that vote.

My amendment tasks the Securities and Exchange Commission with setting a de minimis level of spending and with collecting important information about anyone or any organization that spends over that amount to influence this vote, including who is spending the money, what they are spending the money on and how much they are spending to influence the votes of other shareholders. If an individual wants to

spend more than this de minimis amount and not disclose their identity to shareholders, they are still perfectly able to do so. However, their votes would no longer count in this mandatory vote.

My amendment provides an appropriate level of transparency for shareholder elections. And if we believe that voters deserve this information, then we should also be willing to give shareholders this same level of transparency.

I firmly disagree with the Democrat majority, with the underlying premise of this legislation that it is the Federal Government's job to place this nonbinding mandate on private entities, especially because public companies are already empowered to take this shareholder vote if they so choose and because there is no obligation for anyone to own shares in the company if they do not like the way that it is being managed.

I am also confused by the Democrat majority's recent conversion to the merits of democracy in determining an organization's actions. Less than 2 months ago, the same leadership brought to the floor legislation that strips American workers of the right to use a secret ballot to decide whether or not to unionize, and provides for unprecedented intimidation of employees by union bosses under a fundamentally antidemocratic process known as ''card check.''

But if we are going to pass this interventionist legislation, my amendment would be one small step in the right direction towards giving shareholders all the disclosures that they might need to make an informed decision.

Mr. Chairman, I include for the RECORD a letter of support from the American Shareholders Association that was sent to Speaker PELOSI in support of my amendment.

AMERICAN SHAREHOLDERS ASSOCIATION,
Washington, DC, April 18, 2007.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR SPEAKER PELOSI: On behalf of American Shareholders Association (ASA), I wish to express this organization's strong support for an amendment to be offered to H.R. 1257 by Rep. Pete Sessions. In short, this amendment seeks greater disclosure of funding designed to influence shareholder votes.

Over the past several years we have witnessed the rise of special interest groups seeking to turn boardroom votes into political campaigns. While activist investors seeking to increase shareholder value is welcome by our standards, we have become increasingly concerned by activist investors seeking to achieve political gain with board votes and little regard to what is in the best interests of shareholders.

As such, today's vote on H.R. 1257 should be amended to impose sunlight on the political campaigns being waged in corporate boardrooms, which the Session amendment achieves. This is accomplished by tasking the Securities and Exchange Commission with collecting information regarding the shareholders spending money to influence the vote; the amount spent; and the activities the money was spent on.

While corporate governance is a worthwhile objective we have witnessed a substantial increase in the number of shareholders using this term as a guise at the expense of individual shareholders. The Sessions amendment is designed to protect individual investors from these activities and I urge you and the entire Democratic Caucus to support this very worthy amendment.

Sincerely,

DANIEL CLIFTON,
Executive Director.

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

I don't know how many conversations Members of this House have had with corporate officers and leaders, but very often when you ask them why they will do something or not do something, they tell you that they are there because they have to take care of their shareholders, they have to protect their shareholders, and the shareholders control the corporation.

But when we get to executive pay, all of a sudden we find out that they really don't want to have this discussion among shareholders about executive pay. And here we are presented with an amendment that is designed to close down those discussions, and it is certainly designed to close down those discussions among average shareholders.

I don't know when the shareholder gets the determination of whether or not they have spent a de minimis amount of money or not. I don't know for a retiree, for a pensioner or a worker of that corporation, if they spend $100 or $500, if they give to a campaign, is that a de minimis amount? Maybe to them it is not, but it may be to the campaign. I don't know when that determination is made so that they can then speak out or not speak out or have their vote counted.

And when are they in jeopardy or not in jeopardy? I don't know. Are they responsible for the rest of the campaign if they simply decide to send money to a campaign and vote their vote because it is the only organization available when it is an organization if pensioners decide that they don't like the direction this company is going?

So what you are really doing here is, you are trying to chill the speech and freeze the speech by putting them and holding them responsible for the disclosure that they may not have any control over. They may not have any control over the entities, all persons or entities engaged in such a campaign, they may not know that. They may know they just don't like that executive compensation or they want a discussion of it. They don't necessarily know the activities engaged in to influence the vote.

You know, a lot of times people will hear about these campaigns in the newspaper because they are there, and they don't know the amount of money that is expended on the campaign. When do they get to vote? When do they get to vote? They don't have this information on their person, so to speak, but unless they can comply with this form, their vote is not counted.

Now, let's flip it over to the other side. The corporation can use corporate funds to make a general solicitation of proxies. They don't even have to speak about this campaign, they don't even have to speak about executive pay. They make a general solicitation. They say the shareholders' meeting is coming up, this is the agenda and this is what is going to be on it. Then they get to vote any way they want. What the hell is going on here?

I want to spend $100 or $500 because I think that this is not in the best interest of me. I am a shareholder, I own the stock, and I have got to jump over all the hoops; and the corporation just glides through an election and they have the proxies. This sounds like the problem with executive compensation; the decision is made at the corporate level, and nobody gets to second-guess it.

Send out a general solicitation. Maybe there is no campaign against executive pay at the time that the solicitation for proxies goes out. You know why? Because very often most people don't know what the executive pay is. You can read that form until you are blue in the face and you don't know what it is.

How many times have we heard executive compensation boards say, I was in the room, I didn't know we were paying them $37 million? I was in the room, I didn't know he got those stock options. I was in the room. That is why we started putting responsibility on people who were in the room.

But now this poor shareholder, this poor shareholder who is not in the room, who is not on the inside deal, this person has to jump through hoops. And then I guess what do you do? You petition to have them count your vote, and then in the petition you say, to the best of my knowledge, these are all persons who were engaged in the campaign, and to the best of my knowledge, this is what they did to influence a vote, to the best of my knowledge, this is the amount of money spent; and if it turns out to be wrong, your vote is thrown away. You call that democracy? That sounds like what they call democracy in Latin America or something.

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

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

Mr. FRANK of Massachusetts. The gentleman should give my friends on the other side credit for consistency. As he knows, their definition of democracy has recently frequently included throwing votes away.

Mr. GEORGE MILLER of California. You mean those 13,000 in Florida that are missing? I thank the gentleman.

So this is an incredibly one-sided amendment. This should not be accepted by this House. This certainly should not be accepted when the purpose of the legislation is to expand the participation, the meaningful participation of the shareholders, the people who made a decision to go out and to buy the

stock, or they earned it in their retirement fund.

□ 1850

The Acting CHAIRMAN. The time of the gentleman from California (Mr. GEORGE MILLER) has expired.

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

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

Mr. SESSIONS. I don't have an objection. I would ask the same.

Mr. FRANK of Massachusetts. I will extend the gentleman a similar courtesy.

Mr. SESSIONS. Then that would be fine; the gentleman may continue.

The Acting CHAIRMAN. Without objection, the gentleman is recognized for 2 additional minutes.

There was no objection.

Mr. GEORGE MILLER of California. The point is this. The purpose of this legislation is to address a situation which has unfolded in this country in front of so many American workers, so many retirees, so many people who are close to retirement, when all of a sudden they see that, in the executive suites, they take care of themselves in the cloak of secrecy. And so when all of a sudden a major airline, a major automobile company or any other major corporation goes into bankruptcy, they find out that the executives, as part of their compensation, decided that they would have a bulletproof deferred retirement compensation plan, a bulletproof pension plan; while everybody else was in bankruptcy, that they created a trust, all part of executive compensation. And that is why people are now saying these shareholders, the vaunted basic fundamental makeup of the corporation, the shareholders should be engaged in this conversation.

This amendment comes to the forefront and really starts to strip away that discussion. Reminding you, this is a discussion, since this is a nonbinding advisory vote, so this is a discussion and a vote. And so the question really is, are we going to take the very same people who we pay great deference to when the corporation wants to tell you why they have to do something or they can't do something, it is because of the shareholders; but when it comes to executive compensation, we are going to shut down the ability of those individual shareholders and retirees and others to be able to have this discussion about executive compensation. And executive compensation is getting so large now that it in fact does impact the shareholders, because many corporations if you look at it, you think how much would they have to do to drive that amount of money to the bottom line? What would they have to do to drive that amount of money to the bottom line? This amendment should be rejected because it is contrary to the purpose and intent of this bill.

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent that the gentleman from Texas be permitted to proceed for 2 additional minutes.

The Acting CHAIRMAN. Without objection, the gentleman from Texas is recognized for 2 minutes.

There was no objection.

Mr. SESSIONS. Mr. Chairman, I appreciate the gentleman from California as well as the gentleman from Massachusetts, who, as the chairman of the committee, has forthrightly come before the Rules Committee, made himself available and is doing so again tonight on the floor.

Mr. Chairman, it is quite simple that this is about transparency, and I think that is what this bill is about. It is about bringing transparency and some clarity to a shareholder, to be able to know a little bit more and to express themselves about what they think about executive compensation.

I disagree with that. But let's add some more transparency and at least say that if someone else is going to become engaged in the effort, other than the individual shareholder, that they be given an opportunity to have to at least register their activities and what they are doing. The Securities and Exchange Commission, just like the Federal Election Commission, has a lot of knowledge about how business works and how transactions work. I have no reason to assume that, let's say, GE, that they would have a shareholder for GE held to some standard of $500 or $1,000 as the gentleman suggests, that some retiree could not influence as many people as they wanted, that they would have to go through a reporting process.

Mr. Chairman, the bottom line is that this should be about doing the right thing, where we would understand who was on what side, what they were attempting to influence and whether they were trying to influence the corporation in some way. I think shareholders should know about that.

I believe that the SEC could forthrightly understand that the size of the company, the size of the mailing and those things that happen would be appropriately determined. Obviously, if you are going to go on TV, that threshold might be less. If you are going to go in the mail, perhaps a different threshold. But what I am suggesting to you is it is not us setting the standard; it is the Securities and Exchange Commission that wants to regulate, in a fair and proper way, the marketplace.

The Acting CHAIRMAN. The time of the gentleman from Texas (Mr. SESSIONS) has expired.

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

Mr. SESSIONS. I do thank the gentleman in fairness for giving me the additional minute that they were given.

So I would ask this body to understand today that we might well be passing this bill, but that this amendment process is to bring forward ideas that bring clarity and understanding of transparency. I believe shareholders would also be entitled to know who is attempting to influence them and what those words might be that they choose, rather than just beating up a company. I don't think it is good for anybody in this country to receive a message that might be aimed at someone without full disclosure, without the proper notification about who they were and what their intentions were. This is about transparency. This is about sunlight. This is about doing the right thing that would enhance the bill that is before us today.

Mr. Chairman, I appreciate the opportunity for Mr. FRANK to be able to not only forthrightly offer me the time in fairness, I would also like to thank the Rules Committee, of which I have been a member now for 9 years. I understand what we are doing here, and I will say that I appreciate the way this bill has been handled.

Mr. WATT. Mr. Chairman, I move to strike the last word.

I rise in opposition to the gentleman's amendment.

The gentleman has indicated that this is about transparency. I really don't think it is about transparency. The underlying bill is about transparency and giving shareholders the information they need to at least express themselves about salary increases and golden parachutes, both of which I think all of my colleagues have acknowledged are problems that need to be addressed.

What this amendment is about is more about two things. One is the ability to express ourselves to each other as shareholders without impediments. That at some level is a free speech issue. The second thing this amendment is about is balance. What the gentleman would say to shareholders is, if you communicate with other shareholders about executive compensation or a golden parachute, then your vote gets disqualified. But if the corporate executive communicates with other shareholders about this issue, they can do it in an unimpeded way and without any consequence.

So if the gentleman were interested in making this a balanced amendment, what he would do is to add a provision that said, if the executives communicated with the shareholders about the vote, then they would be disqualified from getting any salary increase if they didn't disclose if they had spent anything other than a de minimis amount of money communicating with the shareholders. That would give it some balance. But right now, it is, as the gentleman from California has pointed out, a completely unbalanced equation. And it is not unlike what is already existing in this executive compensation arena because the scales are

totally unbalanced against shareholders, and the underlying bill attempts to at least in some measure restore a sense of balance and give shareholders more rights. It doesn't do it in an intrusive way. In fact, there are a number of proposals, including one on the Senate side, that would be a lot more intrusive than this bill.

I think this is the least intrusive way to do it, and I support the underlying bill and oppose the gentleman's amendment to the bill.

□ 1900

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. SESSIONS).

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

Mr. SESSIONS. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT NO. 5 OFFERED BY MR. GARRETT OF NEW JERSEY

Mr. GARRETT of New Jersey. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. GARRETT of New Jersey:

Page 4, line 13, strike ''Any proxy'' and insert ''Subject to paragraph (3), any proxy''.

Page 5, line 6, strike ''In any proxy'' and insert ''Subject to paragraph (3), in any proxy''.

Page 6, line 13, strike the close quotation marks and following period and after such line insert the following:2

''(3) CONDITIONS TRIGGERING VOTE.—The shareholder vote requirements of this subsection shall only apply if the executive compensation (as disclosed pursuant to the Commission's compensation disclosure rules) exceeds by 10 percent or more the average compensation for comparable positions—

''(A) in companies within the issuer's industry; and

''(B) among companies with comparable total market capitalization,

as determined in accordance with regulations issued by the Commission.''.

Mr. GARRETT of New Jersey. Mr. Chairman, I rise to offer this straightforward and commonsense amendment today to provide shareholders and companies better guidance on what constitutes an excessive executive compensation package that this interventionist, otherwise, legislation before us does.

But before I do that, I commend the distinguished chair of the committee for his hard work on this legislation, but I would like to point out an inconsistency in his approach to this legislation.

We now have before us new SEC guidelines on executive compensation transparency. These new rules, unfortunately, have not even been given a chance, not an opportunity to bear any results or any fruit whatsoever. So without giving time to see if these new SEC rules will work, the chairman and this House are rushing ahead to consider legislation to address the issue.

But on the other hand, Mr. Chairman, in regards to Sarbanes-Oxley reform, the SEC is also considering new guidelines to address numerous concerns, and in that case, the chairman believes that Members need to be patient and let the SEC do its job. In fact, we have not even had a single hearing on that topic. We are told we need to wait and see if the new regulations will fix the current problems in the corporate sector.

But after listening to numerous arguments by the chairman about inconsistency, and even tonight as well, I thought it important to point this out, that we should be consistent on these two matters and to give both avenues an appropriate time to work things through. But if we are not going to do that, that is why I propose this amendment.

This commonsense amendment I have offered today attempts to keep us focused on the perceived problems of excessive compensation. This amendment would establish a trigger that would have to be met before shareholders vote on executive compensation packages. The trigger would require that executive compensation exceed by 10 percent or more the average compensation for comparable industries in that particular sector and would require that the executive compensation question exceed by 10 percent or more the average compensation for comparable positions among companies with comparable total market capitalization. In essence, the SEC is being tasked with deciding which companies fit into these two categories for the purposes of determining these two percentages.

So, it is simple. Essentially my amendment seeks to limit the required votes to instances where the disclosed excessive compensation in question grossly exceeds the norm and provides a quantitative guideline for what constitutes the norm and what constitutes gross excess. If the underlying bill were to pass as it is currently drafted, we will be forcing literally thousands of public companies across this country to conduct shareholder votes on every single pay package for every single CEO of every single public company all the time.

Now, while the courts have said before ''we know it when we see it'' can be a useful test in certain circumstances, if we have the ability to provide better guidelines to American businesses and consumers, then we should do so in this legislation.

We all know of the large compensation packages that have been given over the last several years. The media has ensured that those that receive extraordinary pensions make it to the media, but you know, for every one of those huge packages, there are literally hundreds, maybe thousands, of other compensation packages that are far more standard. They are within the norm, and we really should not be requiring a vote on each and every one of those that are falling into that category and failing to give the shareholders in those cases the proper information.

So, by adopting this amendment, we will allow thousands of hardworking public companies to continue their day-to-day work without interruption, and we will be better able to focus on the new executive compensation packages that are outside of the comparative norm and may not be in the best interests of the shareholders.

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

Mr. GARRETT of New Jersey. I yield to the gentleman from North Carolina.

Mr. WATT. Mr. Chairman, I am just trying to be clear, under your amendment, who would make this determination of whether it is outside the norm? Where would the information come from? Has anybody done a cost analysis of what it would cost to obtain this information?

Mr. GARRETT of New Jersey. Reclaiming my time, the SEC, as I said, will be tasked with deciding which companies fit into these categories for the purposes of determining these percentages.

Mr. WATT. Is that spelled out in your amendment?

Mr. GARRETT of New Jersey. Yes.

Mr. WATT. Okay.

Mr. SCOTT of Georgia. Mr. Chairman, I move to strike the last word.

I rise to oppose the amendment from my good friend from New Jersey. I certainly can appreciate and value his thought and his effort. He presented this amendment in committee. It was voted down at that time. The chairman has seen fit for us to explore it here.

I think it is very, very important to, first of all, take a very good look at this amendment because I think the American people have certainly tuned into this debate, and on the surface of it, it sounds very nice and good. You recognize that there is a problem; you are just saying that it ought to be, let us just deal with that that is above 10 percent.

But let us look at the wording of this amendment for a moment just to show the difficulty of it. It would allow shareholder votes on executive compensation packages but only if executive compensation at the company exceeds 10 percent or more the average compensation at companies within the same industry and among companies with comparable total market capitalization. A very complicated procedure at best.

One of the first and most fundamental reasons why we oppose this amendment is because it is cleverly designed to do one thing and one thing only, and that is basically to gut this bill because it is totally unenforceable.

The gentleman from North Carolina raises a very important point that I

raise. You know, how can you determine this? Who determines this? And when you say, the Securities and Exchange Commission, they are not in power to do this. What sanction do you have? And is it ''and'' or is it ''or'' market capitalization of 10 percent?

Let me get my point out a little further. As you go in and you talk about the Securities and Exchange Commission and their rules and what they are doing, it is clear to understand that there is nothing within what the SEC is proposing that ensures the bottom line of what we are after, and that is investor confidence in the transparency and accountability.

This is a very different time within the history of American enterprise. We have ballooned into a stratosphere of CEO compensation. That is also compounded by a new culture within corporate America. You no longer have the sole cases of the man coming up, working his way up through the company, works his way up and spends 20, 30 years with the company, 25, 40 years with the company and becomes CEO. No, what you have now is a series of hired guns who move from company to company, with a battery of lawyers, with packages and sort of like free agents here at this corporation, one at another, one the next, different industries.

So what we have here is a response to that situation that has resulted in these very personalized compensation packages that are made among two or three interested parties and a board of directors member perhaps of a compensation team and this individual without any input from the legitimate owners of the company that invest in it.

Now, let me make one other point very clear of what we are doing. All the companies, we should not single out any companies say if it is 10 percent of this or that, even if you could define the rather complicated formula that you have. What we are saying is every stockholder, every company with shareholders publicly traded, should have that opportunity to weigh in and have a say on the compensation packages.

I might add that, in the point that was spoken before, when you said, well, these companies will fold up and they will come off and not be public anymore and be private, that in and of itself points out the need for this bill. For if a company, based upon just wanting to keep secret or keep within the domain what one CEO, one employee, that desire would force them to go private, that lets you know right there if that happens, but as the information is flowed to us, every company that has had a say-so on this, you name it, I mentioned AFLAC, the Coca-Cola company and Home Depot, which just had a little hit here, but even they are moving.

Mr. ROSKAM. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Chairman, the amendment before us, in fact, is intended to strengthen the bill and not, as the gentleman says, to gut the bill.

How does it strengthen the bill? It does so by addressing the exact problem that the gentleman just set forth as what they were intending to do with the legislation in the first place.

The gentleman, and also in committee, went on and all the testimony was about excessive compensation packages and how this is an egregious situation for this country and for the investors. I do not think we had one person who came before the committee, nor has anyone from the other side of the aisle made an example of saying that we should be doing something about fair compensation packages or compensation packages that only went up a small percentage.

All the testimony, all the argument before, all the argument we have heard tonight is about excessive compensation packages, and that is what my amendment does. It says, look to, how do we focus this thing on really where the problem is, excessive compensation packages, and we do that by specifically delineating it, by saying that it is 10 percent or more of the above averages for the industry's norm.

Secondly, the gentleman from the other side points out that the investor does not have any input. Of course, he does, and when the case is involving an excessive compensation package, then he will have the input to make his voice heard.

Thirdly and finally, I think we see the difference of approach as to where the burden in these situations should apply. Should it apply to honest, law-abiding, good, hardworking citizens and businesses in this country, or should the burden be placed on government? My amendment would say that the burden is put on the SEC to make the determination to make those findings, and yes, it will be some burden to do so, but it is on the SEC to make those findings. We should not be placing these excessive burdens on the business sector. If they are doing what their stockholders want them to do, growing and expanding their businesses, hiring CEOs that are making salaries that are fair for them and are within the norm, we should not be placing an additional burden on them.

Mrs. MALONEY of New York. Mr. Chairman, I move to strike the last word.

I thank my dear colleague, Mr. GARRETT, on the other side of the aisle for your strong support for the TRIA bill and for coming to New York for that very important hearing. It is a challenge that both of our States face, and I congratulate your leadership on that very important measure.

But, regrettably, I rise in opposition. I do not see this amendment as straightforward and helping the process. It appears to just complicate it. It sets triggers and hoops that you have to jump through before we can get to a vote.

The underlying purpose of this bill is to allow shareholders to have a vote on a link between pay and performance. If a CEO is doing an absolutely fabulous job and coming up with new ideas and creating new industries and employing thousands and thousands of Americans, as a shareholder, I would probably vote a big pay increase.

□ 1915

But if that CEO was like New Century, where the CEO recently, I think was in the paper today, this gentleman walked away with a multimillion-dollar bonus and $13 million of profit in stock options while his company went bankrupt, and thousands of their borrowers are facing the loss of their homes. As a shareholder, I would be voting, very strongly, ''no'' on that pay package.

To me, the underlying thrust of this is to allow the voice of shareholders in the democracy of their companies and our country and to tie pay to performance. As a shareholder, I would vote for a large pay increase to someone who is doing a good job. But too often we hear about people who are doing a terrible job, bankrupting pensions, running their companies into the ground. With their cronies on the board, and their close friends walking away with these huge packages, it's really not good for the country, it's not good for capitalism, it's not good for business.

This proposal also would increase the cost and length of the time for both the firms and the SEC. The SEC is overburdened now, but this puts more burdens on them to collect the data and calculate the 10 percent that is required before they come forward and make the decision.

I join my colleagues. This was roundly defeated in the committee earlier, and I believe it should be defeated on the floor.

I would like to speak just a little bit about what I am so deeply concerned about, and why I think this is such an important bill. Like many of my colleagues, I am very concerned about the rising economic inequality in this country. Under the Bush administration, it has just gone like that. I don't think it's good for the country or for our future.

Despite 5 years of economic expansion, most American families have struggled just to hold their economic ground on President Bush's watch. Strong productivity growth has not translated into higher wages for most American workers. Those who were already well-to-do are those who continue to grow.

As this chart shows, and I think it's an important one, the red bar shows only modest gains concentrated in the upper half of the distribution from 2000 to 2006. The divergence between the haves and the have-nots and the Bush economy stands in marked contrast to the second term of the Clinton administration. The blue bars, where real

wages and gains were strong up and down the economic ladder for all people, the economy grew, not just for the top, but for all of our citizens.

The people experiencing the largest wage gains are executives and highly compensated individuals. While ordinary workers are not really sharing in this economic growth, their paychecks have not really grown after inflation.

I want to show the CEO chart, because it goes really to part of this bill. Now, this chart shows the compensation, as the bar on the left shows, in the 1980s, the average CEO made about 50 times as much as the average worker. As the bar on the right shows in 2004, that ratio was seven times greater. The average CEO made about 350 times the pay of the average worker.

According to recent studies, that figure has only gone up. The average CEO made 500 times the pay of the average worker in 2006. I say that it's time for shareholders to have a say and that this underlying bill is long overdue.

I congratulate Chairman FRANK for his effort here. It's measured, it's reasonable, and it will enhance shareholder democracy and rein in the excesses of executive compensation.

I would just like to conclude, the main reason I am opposed to your amendment, Mr. GARRETT, although I have a great deal of respect for your work and we have agreed in many ways, is, it does not link the pay to performance. That is what we want to get to the shareholders. That is what is good for economic growth for our country.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. GARRETT).

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

Mr. GARRETT of New Jersey. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Jersey will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. CAMPBELL OF CALIFORNIA

Mr. CAMPBELL of California. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. CAMPBELL of California:

Page 4, line 13, strike ''Any proxy'' and insert ''Subject to paragraph (3), any proxy''.

Page 5, line 6, strike ''In any proxy'' and insert ''Subject to paragraph (3), in any proxy''.

Page 6, line 13, strike the close quotation marks and following period and after such line insert the following:

''(3) MAJORITY-ELECTED BOARD EXEMPTION.—The shareholder vote requirements of this subsection shall not apply with respect to any issuer that requires the members of its board of directors to be elected by a majority of the votes cast in a shareholder election of such board.''.

Mr. CAMPBELL of California. Mr. Chairman, as has been mentioned in the debate tonight, we had a substantive hearing on this subject, and there were six witnesses at that hearing. The witnesses were split as to the substance of the bill that is before us. Four of them liked the bill, supported it, and two of them opposed the bill. However, there was one thing on which there was unanimity with the witnesses. All six witnesses agree that a better solution, a better proposal, would be to allow to have shareholders, or to require companies to require a majority vote before seating a shareholder on the board.

All six witnesses preferred that to this very prescriptive executive compensation proposal. Because, as we discussed earlier, that would actually give shareholders more rights, through the board, to express their displeasure with a company for excessive executive compensation or simply executive operations that they don't like: for a poor performance, for a bad union contract, for whatever they wanted to express their displeasure more effectively by voting against people who were proposed to be on the board. Because if a majority vote is required to put anyone on the board, it's going to take a lot more votes to get people on there than would have happened under the current system.

What this amendment does is, this amendment says that a company will not be required to have an advisory vote on executive compensation if they, instead, require a majority vote, a majority of those voting, to seat a director on the board. That is simply all this would do.

Now, therefore, companies, if they didn't really like the executive compensation proposal, they could go for a majority vote instead, if they felt that was better for them. And as I stated before, I and people all over the spectrum believe that is a better solution.

Interestingly enough, the Business Roundtable believes that is a better solution, and I have a letter here from the Teamsters Union from March 13, 2007, bragging about how FedEx recently adopted a majority vote by law and how important this was for the management of that company. So it is clear that on all sides of this the people believe that majority votes to seat someone on the board of directors is a more effective way to deal with this issue.

Now, let me anticipate some things that my friend, I will get your State right this time, from Massachusetts will say. I have heard the argument that this proposal is too intrusive, that it is more intrusive than the basic bill that is before us. I would argue that it is not, because it actually gives the corporations a choice. They can either accept the vote on executive compensation that is before them, or if they wish to go the route of majority voting for directors, they can do that instead.

I have also heard the gentleman argue that my proposal here is not intrusive enough because it does not require a majority vote of directors for all corporations at all times.

I will tell you that if the author of this bill, the chairman of the committee, wished to amend this bill or pull this bill back, or whatever would be the correct parliamentary procedure, to replace this with a requirement for a majority vote of directors, I would support him on that.

However, with the bill that is before us, this is the only germane solution that can be offered to give shareholders the opportunity to have a majority vote for directors, which will really give them more voice, instead of this silly advisory vote thing, which is so narrowly focused on just one thing that shareholders may have a problem with, rather than the greater issues of governance of corporations.

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

The gentleman from California mischaracterized my argument. I didn't say that it wasn't intrusive enough because it wasn't mandatory. I was responding to his earlier assertion which might have led people to think it was mandatory. I was simply correcting the characterization.

I would say this. If the gentleman wants to introduce a bill, and he complains a little bit, well, that he was only able to offer this amendment because only in this form is it germane to this bill; I know the gentleman is a relatively new Member, maybe he didn't understand that Members have the right to file any legislation they want.

Had the gentleman genuinely wanted to deal with this and broaden the right of shareholders with regard to elections of the boards of directors, that if I were here, I would have filed such a bill, I will tell him now, I will yield only if I can get unanimous consent to extend my time.

If Members tell me that, I will be glad to yield. No problem. I will be glad to yield in a minute just to say this: If the gentleman now decides, having considered this, that he wants to file such a bill, I will guarantee him a hearing. I will say this: We will find more opposition to it if we were to mandate that. That is one of the factors I will introduce.

I would say, until we had filed this bill, I had not seen any indication from the gentleman this is what he wants to do. If he wants to file a bill to give shareholders the right to vote by a majority for directors, and I think there has to be further change, then I would be happy to guarantee a hearing.

I will yield to him.

Mr. CAMPBELL of California. Thank you. I will assure the gentleman that I will do that.

Mr. Chairman, I would like to suggest that the gentleman withdraw the bill that is before us. If you believe that it is a better solution, I believe you do, then let's withdraw the bill.

Mr. FRANK of Massachusetts. I am taking back my time.

I will explain why to the gentleman, because I think it's going to be hard enough to get even this through. We have had people who said this is way too much. I do not think the gentleman speaks for his party in being supportive of something that will be far more opposed by a broader segment. If, in fact, that would happen, I would be supportive, but I do not want to have the chance to sacrifice this.

I will say one other point. The argument is, why do you single this out? I believe there have been problems with boards of directors in general, although I will repeat again that the Chamber of Commerce, as was noted, thanks Sarbanes-Oxley for significantly improving the quality of boards of directors. I think our former chairman should be pleased to have this ringing endorsement of his handiwork from the Chamber of Commerce.

But there is still this problem, boards of directors are at their least independent in dealing with the CEO who may have selected them. I do think there is reason to single out the CEO-board relationship from other issues.

The other question I have is this and why I wouldn't vote for this amendment in any case, it says a majority vote, but here is the problem. In many corporations, there is no way to nominate someone to be on the board, other than by the board. There are many corporations that do not allow that.

If the gentleman wants to come in with a bill that says shareholders, a certain minimum number, not any one person, but if we could agree that a reasonable number of shareholders could designate alternative candidates, then we could do this. An election in which you require a majority to be elected is part of the democracy, but an alternative is also part of the democracy.

The gentleman has half of the democracy in here. He has a requirement of the majority vote, but no requirement that there be any competition. As we all know, the fact of competition could affect the final vote.

If the gentleman's newly found interest in this sustains itself, and he says it will, and he wants to file a bill that requires that there be access, proxy access to our nomination process and then a majority vote, he will have my support. Until then, though, I see no reason, in the hopes of that, to get rid of this bill.

I do want to respond to an earlier comment by the gentleman from New Jersey who said we could only do it for excessive compensation. He fundamentally misunderstands this bill and contradicts itself.

It is not the job of the Congress to say what it is or isn't excessive. We have individual opinions about excess. We are leaving it to the shareholders.

The gentleman said they should only have to vote if it is more than such and such above the average. What about if you are getting average pay for a subpar performance? What if the shareholders of a particular corporation say, this man doesn't deserve the average, this woman hasn't lived up to the average?

The notion that we should qualify the abilities of shareholders to vote on what to pay the owners of their own company, based on what we think is excessive, an empirical definition put in the bill, fundamentally misunderstands what we are trying to do, which is to empower the shareholders to express their opinion.

Members keep saying it is simply only advisory. I do not think, Mr. Chairman, that anyone believes that. I do not think that anyone thinks that an advisory vote of shareholders would be easily dismissed by boards of directors.

One final point, the suggestion if we do this, the boards of directors and CEOs in pique will take their companies private, when presumably they otherwise wouldn't, because that is the only way it could be causal, what a condemnation of CEOs. How dare you vote on my pay? I will take my company private.

By the way, in fact, you can't take the company private over the shareholders' objections.

□ 1930

The Acting CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

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

Mr. FRANK of Massachusetts. I just want to repeat the point I made. This threat that we will take the company public, the CEO will take the company public, understand what that says: That if the CEO's pay is subject to a shareholder vote, in retaliation, he will make a fundamental change in the ownership structure. And, by the way, that assumes that the shareholders don't have anything to say about it. No, I do not think that shareholders will sit and vote for a takeover of the company just to allow the CEO to shelter his or her pay; so this threat, I think, is an empty one.

Mr. MCHENRY. Mr. Chairman, I move to strike the last word.

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

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

Mr. CAMPBELL of California. I thank the gentleman from North Carolina.

Just to respond to the gentleman from Massachusetts' comments, I will introduce such a bill, as we have discussed, and I am happy to work with the chairman on that.

But what is before us right now is this amendment and this bill, which I wish you would withdraw so we could work on the other; but, apparently, you are not going to do that.

And since you are not, what we have before us is this bill right now and this amendment right now. You said it is only half democracy. Well, what we have before us is zero democracy. This amendment is at least half democracy. Maybe it is not full democracy, as you say, but it is better than none. That is what this amendment is.

I would caution Members on the other side, if you oppose this amendment, you are opposing majority voting for the opportunity to have in this bill a large incentive for companies to put majority voting for directors. If you vote ''no'' on this, you will be voting ''no'' on that opportunity in this bill. Let's understand that is where we are. In the future, I will be happy to work with the chairman on other things.

Mr. MCHENRY. In order to move this along because the reason I am allowing the gentleman from California to speak on my time is so I can have an opportunity to offer my amendment, and we are pushing up against a time limit.

Mr. FRANK of Massachusetts. Mr. Chairman, would the gentleman yield me 1 minute? I will talk fast.

Mr. MCHENRY. The gentleman certainly talks fast, and I will yield him 30 seconds.

Mr. FRANK of Massachusetts. I just wanted to say that this does not in any way enhance democracy. The notion that if you vote against this bill, you vote against democracy, makes no sense.

The gentleman says it is an incentive to make the corporations do this. Apparently he believes that, assuming a nonbinding, ineffective, toothless advisory vote will provide a major incentive to corporations to make a major structural change; I don't.

Mr. MCHENRY. Mr. Chairman, reclaiming my time, I yield to Mr. CAMPBELL.

Mr. CAMPBELL of California. The gentleman from Massachusetts may have heard others say it is toothless and ineffective. I didn't say it was toothless and ineffective. In fact, I think it creates problems when companies have to hire somebody quickly and that sort of thing. I didn't say it was toothless and ineffective. I said it was silly. I did say it was silly because it only targets one element of shareholder displeasure with a company, which is an element, and although it can be very irritating, amongst many, many elements that are out there, is the least likely to actually destroy shareholder value, and that is what shareholders are interested in, is shareholder value.

So I didn't say it was toothless and ineffective. I said that I think it is the wrong solution to the problem that is before us.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. CAMPBELL).

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

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

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

AMENDMENT NO. 7 OFFERED BY MR. MCHENRY

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. MCHENRY:

Page 3, line 18, strike the close quotation marks and following period and after such line insert the following new paragraph:

''(3) DISCLOSURE OF VOTE TO PENSION FUND BENEFICIARIES.—A shareholder who is casting the vote permitted under this subsection on behalf of the beneficiaries of a pension fund shall be required to disclose to such beneficiaries whether such vote was cast to approve or disapprove the compensation.''.

Mr. MCHENRY. Mr. Chairman, I thank the gentleman for the opportunity to offer this amendment under this semi-open rule.

My amendment is simple and straightforward; and I know that is always a misnomer in this place. But it is simple and straightforward. It holds pension funds accountable to their member shareholders for their proxy votes.

Really, the intent I believe the bill's sponsors had is for transparency, so shareholders can actually have their voices heard, and they are transparent in their corporate voting structure.

This amendment requires a shareholder who is casting a nonbinding advisory vote to disclose to their beneficiaries whether such vote was cast to approve or disapprove the compensation.

As we well know, pension funds hold stocks for others. I think it is important that the managers of those pension funds disclose to the actual owners of those retirement funds, those pension funds, how their managers cast their votes. And if the purpose of the Shareholder Vote on Executive Compensation Act is to attain a greater level of accountability to shareholders, then my amendment simply must be adopted in order to fulfill that.

Union leadership or pension fund leadership should have to inform their shareholders how they cast votes on their behalf. I think that is a matter of openness and transparency.

As Members of Congress, this issue should hit close to home. Do you believe your constituents back home, the people you represent, should know how you vote? Well, that is exactly what we are offering here today, what I am offering in this amendment. It is a very commonsense thing about disclosure to those that it actually affects. Voting against my amendment sends a clear message to your constituents that you value secrecy over transparency.

Why should only the mutual fund industry have to inform their shareholders how they cast their votes? So what we are doing is applying what is already done for mutual funds. Mutual funds are required to disclose to the owners of that mutual fund how the leadership, the management, casts proxy votes; and in this instance, it would be operational. They would have to disclose to their owners how they cast a vote.

Well, let's apply that to the pension fund. Let's apply that to union pension funds, let's apply that to State-managed pension funds. I think it is a reasonable thing.

What I find disturbing, though, is in some ways you are allowing activist shareholders to participate in this vote without actually having to disclose to those that own the pension funds, to those who actually own the stocks in this case, how they vote. I think it is a matter of disclosure, and it is what is necessary and fair.

Political groups like big labor and huge pension funds will have the power to ransom business leaders with their votes. But what we are trying to do is hold them accountable for their actions and activities, and ensure that those people who own those stocks and have a financial interest in the pension fund have an idea of what their management is doing.

Look, if we don't do this, it will create a situation where critical business decisions are being made by those least prepared to make them. In the name of fairness, transparency and accountability, I urge my colleagues to adopt this amendment.

Now I don't want to misstate what the chairman said when I offered this during committee and what some of my colleagues on the other side of the aisle said, but in many respects, they like the intent of this, and I know that the chairman is trying to keep this, his original bill, free and clear of any amendments. I understand that. I certainly understand that. But I think this is a proper addition to ensure that shareholders truly understand what those who are controlling their votes actually are doing. I think it is a necessary and proper thing to do.

I urge my colleagues to support this amendment.

Mr. WATT. Mr. Chairman, I move to strike the last word, and I yield to the chairman of the committee.

Mr. FRANK of Massachusetts. I think the gentleman from North Carolina did correctly state my view, but my position was not simply to keep this bill clean, we did accept a couple of technical amendments. I would point out to him, in committee, the gentleman from Connecticut (Mr. SHAYS) had a substantive amendment, which we accepted, dealing with rights.

My view is this: I agree on the principle that a fiduciary's vote should have to be made public, but I wouldn't want to limit it only to pension funds. I also don't think it should be limited only to this subject matter, although I agree, given germaneness, the gentleman couldn't have broadened it beyond that subject in this bill. But it could be broadened beyond pension funds.

I believe we should have a hearing on the principle where the gentleman is correct, and I agree with him, that fiduciaries should have to be made public, but that is all fiduciaries on all issues.

Mr. WATT. Reclaiming my time, that was exactly the point I was going to make.

So a broader amendment, were it germane to this bill, would probably be received favorably by all of us because we believe that fiduciaries in general should be reporting to the people that they are representing. But when you limit it only to pension plans, you eliminate foundations, you eliminate family trusts, and you eliminate a whole range of other fiduciaries that should have the same obligation. And singling out pension plans in this context I think is the wrong thing to do.

I am happy to yield to the gentleman from North Carolina.

Mr. MCHENRY. Mr. Chairman, while I appreciate my colleague speaking to that, I would ask if you would be willing to write a letter to the SEC with me encouraging them, through the regulatory process, to do what you just outlined. I certainly appreciate what you are doing. I would like to have a vote on this because I think we should get on record saying this is the right move. But I would like to work with you all on this.

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

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

Mr. FRANK of Massachusetts. I appreciate that spirit of cooperation, but it is getting late, and Friday is coming, so I would offer either a letter or roll call, but not both.

Mr. WATT. Reclaiming my time, I am not sure that the SEC would have the authority to go outside without some legislation anyway. So a letter to the SEC saying, do this, would take two conditions: Number one, it would take the passage of this bill, and I presume the gentleman is not planning to vote for it. So you would be asking us to accomplish something for you without a quid pro quo.

Number two, it would take some legislation.

I yield to the gentleman from North Carolina.

Mr. MCHENRY. I would be happy to vote for the legislation if my amendment passes because I think that furthers it, and if I have a commitment from the chairman to maintain it through conference.

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

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

Mr. FRANK of Massachusetts. I have just been advised by staff, who is very knowledgeable on this, that part of the problem is, and I understand the gentleman has, as I think is appropriate, substantively the model of what was done with mutual funds, but I have been reminded that the SEC has a plenary power over mutual funds that it

does not have over foundations. I have now been instructed that the SEC could not do that. You cannot reason that what they can do over mutual funds to what they can do over these other fiduciaries, so I think it would take separate legislation.

Mr. WATT. I am delighted that my chairman has reaffirmed that because my colleague from North Carolina would never take that piece of advice from me. I'm joking.

I oppose the gentleman's amendment because it is not broad enough to cover all fiduciaries. We ought to work on it in a different context, and I hope we will have that opportunity.

Mr. ROSKAM. Mr. Chairman, I move to strike the last word.

I rise to point out that there is some dizzying logic going on. Basically, we are being told, here is a piece of legislation, and if you are clever enough to come up with a germane amendment, we will sort of humor you and listen to you. But if there is a larger suggestion, then it is very difficult to move forward.

I would just suggest to the chairman of the committee that the perfect is the enemy of the good. It strikes me that the gentleman from Massachusetts is an incrementalist. Those who survive most in this arena are incrementalists, and he has survived for a long, long time, Mr. Chairman, and flourished and been very successful as a legislator.

But it just seems that this is a good faith effort on the part of the gentleman from North Carolina to put forward something substantively. Is it the totality of making every problem go away? No. There is no way to do that.

□ 1945

And it is a little bit of a procedural Catch-22 that he is in.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

I am disappointed in the characterization. In the first place, it is not accurate that germaneness prevented this from being a broader amendment. As I acknowledged, germaneness does prevent this from getting into other subject matters. But nothing would have prevented this from applying to the other entities that my colleague from North Carolina enumerated. Nothing would have said that other fiduciaries could have been covered. And that is why I am against this amendment.

Frankly, we have a difference between the parties here to a very great extent on labor unions and the contribution they make to the United States.

Mr. MCHENRY. Will the gentleman yield?

Mr FRANK of Massachusetts. Yes.

Mr. MCHENRY. Well, if the gentleman seeks to perfect my amendment, that is a whole another deal. Through unanimous consent we could expand this to not just pension funds but all issues.

Mr. FRANK of Massachusetts. No, I will take back my time to say to the gentleman, I will not legislate on serious subject matter involving large numbers of institutions on a unanimous consent agreement to an amendment that he filed when he could have filed whatever he wanted at a quarter to 8 or at any other time. I think there should be hearings. I have said we will do this.

You know, the gentleman on the other side may, with the motions to recommit, believe in the 5-minute solution to complex problems. I don't. I think it degrades the legislative process. I will not be a party to it. I will not agree.

The gentleman could have filed any amendment he wanted to that was germane. He could have filed a broader amendment. We could have had more debate and discussion on it.

I do not agree I or he or any of us off the top of our heads are able to decide how better to broaden this. And there is a disagreement between us about labor unions. Let's make it explicit. That is partly what is involved here.

There has been a degree, I believe, of denigration and demonization of labor unions, that is part of the reason I think we have the economic inequality we have. For pension funds I read labor unions because they are identified with unions.

The gentleman from North Carolina, who is a very good lawyer, mentioned a number of other entities that should be covered if you were going to be covering fiduciaries. I do not think it is accidental that only pension funds are mentioned. I think that bespeaks this notion that labor unions are somehow in need of more supervision, that they are more damaging and dangerous. I think the opposite is the case. I think there have been abuses from foundations. There have been some abuses from unions. So that is why I object to doing this, because I do not think it is the first step. I think it is part of a denigration of the role of labor unions from which this country suffers. Indeed, I will just say I am struck as we debate now whether or not to put standards from the international labor organizations into our trade treaties. We are now being told by opponents that we can't do that because America doesn't meet those standards; that because of the years of denigration of the labor unions, we don't meet those standards. So I do not agree to single out pension funds because I do not agree that we should join in this somehow, this suspicion of unions. And I don't agree that in a unanimous consent agreement off the top of our heads we ought to decide how more broadly to do it. I would rather legislation responsibly.

The committee that we are all members of, those of us who are now on the floor, has been, I think, a very thoughtful forum, not just under my chairmanship, under the chairmanship of my predecessor. We have hearings. We have an excellent staff on both sides. We have worked together.

I look forward to hearings on extending the principle of fiduciaries having to reveal how they have voted on all issues and to all fiduciaries. But I do not think we should single out pension funds tonight, nor do I think we should on the fly try to broaden it, so I oppose the amendment.

And I will yield now to the gentleman.

Mr. MCHENRY. Well, I appreciate the chairman yielding, and I don't want to belabor this point. So the gentleman is saying he is willing to work for legislation that makes sure that all fiduciaries disclose—

Mr. FRANK of Massachusetts. All votes.

Mr. MCHENRY. All votes. And so the gentleman will be happy to work on legislation together on this.

Mr. FRANK of Massachusetts. Well, it is late and I am sometimes cranky. I can't say that I would be happy to work with the gentleman, but I would be willing to.

Mr. MCHENRY. Well, I certainly appreciate the Chairman's willingness, and although not pleased or happy about it but, you know, his willingness to work with me.

And just in a final note, I was trying to actually get both of you, both my colleague from North Carolina and the gentleman from Massachusetts, in favor of this amendment and I actually accepted your arguments on broadening this. Once I accepted them, then you said it was on the fly. So it is circular logic that is very interesting.

Mr. FRANK of Massachusetts. I will take back my time to say that you cannot, the gentleman could have offered a broader agreement. I do not agree. Yes, I would ask for unanimous consent to make a slight technical change in an amendment to fix wording. But to go into a much broader version of the subject, under these circumstances, without a hearing, without full participation in a mark up would be inappropriate, and that is what I mean by on the fly.

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

I rise in support of this amendment. I rise to support it because I think it would make a bad bill less bad.

As I look at the underlying bill, I am reminded of a couple of things that my colleagues on the other side of the aisle do well. One is mandate, and the other is class warfare.

Now, what we are debating here tonight on the underlying bill is a mandate, a mandate for a voluntary shareholder, non binding referendum on executive compensation.

I have listened to the debate today very carefully, and it seems to strike me that if there was ever a case of a remedy in search of a problem, this very well may be it. I have heard many of my colleagues come to the well and speak about outrageous and unreasonable executive compensation. I suspect

that unreasonable and outrageous are to be found in the eyes of the beholder. A CEO that rescues a troubled company, creates thousands of jobs, increases shareholder value by 80 percent so that folks can help send their kids to colleges, maybe help a parent with long term health care, my guess is that if that person made a gazillion dollars he was probably underpaid. A CEO who runs a company into the ground, who loses 80 percent of shareholder value, maybe he isn't worth 50 cents.

But the question ought to be, what is the state of corporate governance in America, and the shareholders, do they have say so? They have the most important decision that they can make. Mr. Chairman, they don't have to buy the shares in the first place. And we know that the SEC has just engaged in creating even greater and more disclosure. So if shareholders have the opportunity not to purchase this stock in the first place, I don't understand, and if we have disclosure where it should be, why we are trying to mandate a voluntary, non binding referendum on executive compensation. I don't quite understand. Clearly, in America, you still have a right not to buy a stock.

Now, I have heard a lot about what I would characterize as the typical class warfare that we hear from our friends on the other side of the aisle. And it reminds me, sometimes, that one of the accepted forms, really in some respects of bigotry in this society is bigotry against those who are successful. And so we come and we see charts about this disparity in pay. But, you know, Mr. Chairman, the outrage seems to be kind of selective. Where is the outrage of the hundreds of millions of dollars made by personal injury, trial attorneys and tobacco attorneys, and their legal secretaries maybe make $30,000? Where is the outrage there? Where is the outrage at Hollywood actors and actresses making tens of millions of dollars, and the guy moving the set around, maybe he is making $20,000?

I recently learned that Julia Roberts made $25 million for the film Mona Lisa. It cost $65 million to make, but only earned $64 million at the U.S. box office. I don't know for a fact a public company had to pay that salary, but I suspect they did. Now, where is the moral outrage there?

And, in addition, where is the proposal for the mandatory, voluntary non binding referendum on the compensation that may be paid to one of these individuals?

I mean, what comes next? Are we going to have the mandate for the non binding shareholder referendum on the amount of R&D expenditures that a company makes? Perhaps their marketing budget, Mr. Chairman? Maybe their choice of an auditor? I mean, why do we stop here at executive compensation?

And let me speak momentarily about the mandate. My guess is that to any individual company, this mandate may not be too costly. And I was very happy to have, in the last Congress, the chairman's support on a piece of legislation that I worked on that provided regulatory relief for our financial institutions.

And it is not one particular item. And every single mandate may sound pretty good, looking at it singularly, but collectively they are all adding costs to these companies, and you have to ask yourself, is it serving a good purpose? Because if it isn't, what is helping send jobs overseas is too much regulation, litigation and taxation and we need to support the amendment and vote down the bill.

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

This has been a very lively debate and a very good debate. And I think it points out the need for us to examine this issue within the context of a very pressing concern the American people have. We are not up here because we have sat in a room someplace and decided this is what we ought to do. There is a great demand to bring some integrity, to bring some transparency and accountability to this whole issue of executive pay compensation that has gotten out of bounds. And our answer is simply to look at the system as it is there, as it is situated, and extend to the shareholders, to the board to make available to the shareholders on their proxy statement, a block that says, do you approve or you disapprove of the compensation packages. What happens after that we have nothing to do with. That is their decision to make.

And I think we have to also look at the whole issue of what is happening in America today, this whole issue of a war on the middle class; this great divide that is happening. I am telling you, it is dangerous to the future of this country.

This is simply an effort to respond, to give some confidence, and to give another tool, an effective tool that works within the system, that is very fair, that is very moderate, as an example of trying to correct a situation that clearly, clearly has gotten out of hand.

Now, you all have offered amendments. You have offered them in the committee. Now, in all deference to our chairman, our chairman has been very fair in the committee and on this floor and on the pension issue. He has clearly stated, as he did in committee, and again on the floor, we will have a hearing on this, where it should be.

But by the very nature of this issue even exploding into the area of pensions and other fiduciaries, it shows the great need for us to examine our compensation structure in the system.

Gentlemen on the other side, we owe it to the American people. We owe it to our system to protect it. Throughout history we have had to make adjustments. Go all the way back to the fall of the stock market, 1929. There are reasons that that happened. The SEC itself was born as a result of a need to do some things. And we continue to muscle right along.

I think it is very important that we put in the RECORD also, before we conclude tonight, because we have had some of our companies names bandied around here, one of which was Home Depot. And I certainly want to recognize Home Depot for moving and taking this issue on and understanding, even to them, the surprise and the concern and the tone that they want to correct for what happened with their predecessor, the CEO, Mr. Darnelli. They are now moving very aggressively to look at this issue itself.

And let me just read, for the RECORD here, Mr. Chairman, where it says that other companies have already begun a process of allowing their shareholders to decide on implementing say on pay. This week Citigroup, no class warfare here, Wachovia. No class war here. Coca-Cola are holding annual meetings at which time their shareholders will vote on say on your pay proposals.

Every company that has had a chance to weigh in on this issue is moving ahead because they know it is the right thing to do, because they know, at the end of the day, what is needed is for us to make sure that the confidence of that investor is strong.

That is what makes this country great. Our free enterprise system, our move here is to protect it. I commend the chairman, and I thank our committee for pushing this forward.

□ 2000

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. MCHENRY).

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

Mr. MCHENRY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from North Carolina will be postponed.

Mr. FRANK of Massachusetts. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. JOHNSON of Georgia) having assumed the chair, Mr. ETHERIDGE, Acting Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1257) to amend the Securities Exchange Act of 1934 to provide shareholders with an advisory vote on executive compensation, had come to no resolution thereon.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, and under a previous order of the House, the following Members will be recognized for 5 minutes each.