Mr. Chairman, there are 50,000 small businesses in Montana. Ninety percent of them employ 50 or fewer employees. It is not the place of the Federal Government to deny those small businesses in Montana the opportunity to provide flexible workplaces.

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

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, as a new member of the Committee on Education and the Workforce, I rise in support of H.R. 1 and in opposition to the amendment offered by my colleague from California [Mr. MILLER]. I am a strong supporter of the bill before us, H.R. 1, and was pleased to support it in the committee earlier this month.

Contrary to what my colleagues may hear today, the bill does not affect the 40-hour workweek or existing rights of overtime pay. It also has built-in protections and safeguards to ensure that employees are not coerced into choosing comptime. The base bill allows employees to decide how they want to be paid for their overtime work, either in dollars or comptime.

I once had a job where this policy was in effect, both as an employee as well as a boss, and I know that it works. When I no longer serve in this Congress, I would strongly prefer a job where I could put in a 40-hour week over 4 days and have a Monday or Friday off to spend time with my family, and I would think that that would be a worthwhile and attractive alternative to many of us in this Chamber today.

Today I have heard a lot about being forced to choose one or the other. That does not happen. What we want to do is give workers the opportunity to choose for themselves what they want. The opponents of this legislation have offered lots of amendments, but they have not offered an amendment to take away this benefit from those employees that today have exactly this type of practice in the workplace. My sense is if they did, that those employees that have that opportunity today would raise a real hue and cry against what this Congress would do.

Mr. Chairman, it works. I saw it work. We need to have this work for all employees and that is why I am glad to support this legislation this afternoon.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from Michigan [Ms. RIVERS].

Ms. RIVERS. Mr. Chairman, the debate today really is about striking a balance, about finding a way to meet the demands for flexibility that employees all over this country have with our need to protect people from decisions that employers might make to the disadvantage of that employee. We are really talking about income protection here today.

I know that there has been some discussion about the importance of letting individual employees decide and I agree, that is important. We should let individuals decide. But I think that the other side protests a little too much about that, and the speeches we have heard about how demeaning it is to suggest that employees may need some protection really does not look at the issue in a reasonable light.

I know, because for many years my husband and I lived on overtime. My husband is an autoworker. He works in 1 of the 12 automobile plants in my district. He has been an hourly worker for the entire time we have been married. Overtime for many years paid for our Christmas presents. It allowed us to take a summer vacation. It allowed us to make additional payments on our cars. If that income were not available to us, our life and our quality of life would have changed substantially.

Now, the argument is, is that the employee makes all the decisions under this bill. Of course that is not true. The reason that people have been so concerned on our side of the aisle about lower income employees is because the people who most need the money, lowincome employees, are the ones that are most susceptible to the kind of pressure that an employer could put on them. Employers can put that kind of pressure on an employee to choose time off rather than income, or they can pick and choose between employees about who will get the overtime, probably the one who will take time rather than money.

It is important that people realize while compensatory time is valuable, you cannot buy bread with it, and for people who need the income we have to be sure that this bill protects them and protects the money that they need each and every week.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. PAUL].

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

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

Mr. Chairman, I rise today in support of H.R. 1 and in opposition to the Miller amendment. The Miller amendment obviously would negate everything we are trying to do in H.R. 1.

One of my favorite bumper stickers simply says ''Legalize freedom.'' I would like to think that is what we are doing here today, is legalizing freedom to some small degree. The workers in the public sector already have this right to use comp time. There is no reason why the workers in the private sector cannot have this same right as well.

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The bedrock of a free society is that of voluntary contracts and it is easy for many of those who oppose this bill to understand that voluntary contracts and voluntary associations in personal and social affairs is something that we have to respect. But there is no reason why we cannot apply this to economic affairs as well. A true free society would permit voluntary contracts and voluntary associations in all areas, and it has not always been this way, as it is today, where social liberty and economic liberty are separate. It has only been in the 20th century that we have divided these two, and there is no reason why we cannot look at liberty in an unified manner. Those individuals who want freedom of choice in personal and social affairs should certainly recognize that those of us that believe in economic freedom ought to have those same choices.

This great division has occurred and has led to a great deal of confusion in this country. Today, we are making this token effort to relegalize in a very small manner this voluntary contract to allow workers to make a freedom of choice on how they would like to use their overtime, taking the money or using it as comptime. There is no reason why we should prohibit this. It is legal in the public sector. There is no reason why we cannot legalize a little bit of freedom for the worker in the private sector as well.

Mr. Chairman, this act partially restores the right of employees to contract with their employers to earn additional paid time off from work in lieu of overtime pay when the employees works longer than 40 hours in a week.

I am pleased to support this bill, as it represents a modest step toward restoring the freedom of contract. Freedom to form employment contracts is simply a branch of the freedom of association, one of the bedrocks of a free society. In fact, another good name for freedom of contract is freedom of economic association.

When persons have the right to associate with whom they choose, they will make the type of agreements that best suit their own unique needs. Any type of Government interference in the freedom of association means people will be forced to adjust their arrangements to satisfy the dictates of Government bureaucrats,

For example, even though workers might rather earn compensatory time so they may have more time to spend with their children and spouses then accept paid overtime, the current law forbids them from making such an arrangement. But Congress has decided all Americans are better off receiving overtime pay rather than compensatory time, even if the worker would prefer compensatory time. After all, Congress knows best.

The Founders of the country were champions of the rights of freedom of association. Under the U.S. Constitution, the Federal Government is forbidden from interfering in the economic or social contracts made by the people. As we all know, the first amendment prohibits Congress from interfering with the freedom of association. There is nothing in the history or thought of the Framers to indicate economic association was not given the exact same level of protection as other forms of association.

In fact, the emphasis placed by this country's Founders on property and contract rights indicates the Founders wanted to protect economic associations from Government interference as much as any other type of associations.

Unfortunately, since the early years of the 20th century, Congress has disregarded the

constitutional prohibition on Federal regulation of freedom of economic association, burdening the American people with a wide range of laws controlling every aspect of the employer-employee relationship. Today, Government presumes to tell employers whom they may hire, fire, how much they must pay, and, most relevant to our debate today, what types of benefits they must offer.

Behind these laws is a view of the function of Government quite different from that of the Founders. The Founders believed Government's powers were limited to protecting the liberties of the individual. By contrast, too many in Congress believe Government must function as parent, making sure citizens don't enter into any contracts of which the national nanny in Washington disapproves.

I note with some irony that many of the same Members who believe the Federal Government must restrict certain economic association claim to champion the right of free association in other instances.

For example, many of the same Members who would zealously defend the right of consenting adults to engage in voluntary sexual behavior free from State interference. Yet they are denying those some individuals the right to negotiate an employment contract that satisfies these unique needs.

Yet the principle in both cases is the same, people should have the right to contract and associate freely with whomever, on whatever terms they choose, they choose without interference from the Central State.

As has been often mentioned in this debate, 75 percent of employees surveyed by the polling firm of Penn & Schoen favored allowing employees to take compensatory time in lieu of overtime. Yet Members of Congress, who not only claim to favor freedom of association but claim to care for the workers, will not allow them the freedom to contract with their employees for compensatory time.

What arrogance and hypocrisy. If employees feel that compensatory time would benefit them, and employers, eager to attract the best employees, are willing to offer compensatory time, what right does Congress have to say "No, you must do it our way?"

Congress has no right to interfere with private, voluntary contracts whether between a husband and wife, a doctor and patient, or an employer or an employee.

Mr. Chairman, it is time to lift the federally imposed burdens on the freedom of association between an employer and employee. As a step in that direction, I will vote for the unamended Working Family Flexibility Act and I call on all my colleagues who support individual liberty and freedom of association to join me in supporting this pro-freedom, pro-worker bill.

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

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Chairman, today I rise in opposition to the Miller substitute and in strong support of the underlying bill, H.R. 1. The Miller substitute has many problems, among them it effectively denies comptime to many American families by setting up classes of ineligible workers, and as my colleague from Illinois, Mr. FAWELL, so ably showed, it makes unlikely an employer would ever offer comptime to employees because of a new maze of Federal regulatory requirements.

As my colleagues know, Mr. Chairman, as I have listened to this debate it has stimulated me to go back and read this bill. This is not rocket science. This bill is only eight pages long. Basically what this bill says is, on page 3, an employer can provide comptime to employees only if, A, the employees union agrees to it, or B, the individual has chosen to receive comptime in lieu of mandatory overtime compensation. And what happens then if an employee decides he does not like it? Well then you move on to the next page, page 5, an employee may withdraw an agreement described in this paragraph at any time. An employee may also request in writing that monetary compensation be provided at any time for all compensatory time accrued that has not been used. And then, Mr. Chairman, what happens if an employer abuses this? Well, then they are subject to the Fair Labor Standards Act of 1938.

Mr. Chairman, this is a very good bill. If my colleagues would listen to one side and the other side, they would wonder who is telling the truth. My suggestion is: Read the eight pages of this bill and vote for H.R. 1 and vote against the Miller substitute.

Mr. MILLER of California. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I want to thank my colleagues who have joined in this debate this afternoon.

There is a very fundamental, a very fundamental difference between these two pieces of legislation. We believe that one of the fundamental differences is about really preserving the truly voluntary choice by the employee, about truly voluntary flexible scheduling by the employee and making sure again that preserving the choice of the employee about when to use his time. We also have a very fundamental difference, and a number of my colleagues from the other side of the aisle spoke to it. We believe that there are people unfortunately in this country who are very vulnerable workers, who work in industries with a long history of running on their workers' pay, on not sending their contributions to the State unemployment board, of not sending the tax contributions to the IRS, of not paying into Social Security. Unfortunately, some of these people may be well intentioned but rather under capitalized, and they constantly are taking what the employee has earned and using that to run their business, and then the employee is left holding the bag. It happens to tens of thousands of employees all of the time in this country. Hundreds of thousands of employees have been denied overtime that they have worked for and that they have earned according to the Department of Labor.

So what are we saying? We are saying in those industries where you have a history of these kinds of activities, the Secretary of Labor ought to be able to say whether or not those employers ought to be able to engage in comptime because let us understand what one does with comptime:

"You agree to work overtime. You agree to work more than 8 hours, more than 40 hours. You agree to work at night. You agree instead of going home at the end of your shift you're going to stay and do some additional work. A lot of that work is real hot and it's real heavy and it's real dangerous, but that's what you agree to do and you've earned that. You should be protected then against the ability of an unscrupulous employer to run on the obligation."

Mr. Chairman, I appreciate that a number of speakers have gotten up and spoken about that provision of this bill, but we do believe, we do believe, that those people ought to in fact be protected. They can exercise the choice, but they ought to know what the choice is about, and if it is in an industry, then the Secretary of Labor ought to try and determine whether or not we ought to put these people's wages, these people's wages at risk in the case of where we have a history of unscrupulous employers.

So there is a fundamental difference about these two pieces of legislation. I would hope, I would hope that those who are truly interested in providing the real choice of comptime versus overtime and real flexibility for families to use it when they need it and can help their families will vote for the Miller substitute.

Mr. Chairman, I yield back the balance of my time with my understanding the gentleman from Pennsylvania will be the last speaker.

Mr. GOODLING. Mr. Chairman, I yield myself the remainder of my time.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 6 minutes.

Mr. GOODLING. Mr. Chairman, I rise in opposition to this substitute offered by the gentleman from California [Mr. MILLER].

I have to wonder where we have been the last couple years because the last time we had this legislation before the committee in the last session of Congress there were no amendments offered in committee, and there was no substitute offered on the floor. This year there were some amendments offered in committee, and we took some of those and included them in my amendments here on the floor, but only one amendment was offered from the other side. So, as my colleagues know, where have we been all of this time?

I have many objections to the substitute. First of all, I do not question the intention of the substitute, but I do very pointedly say that it positively guts the whole bill, and I can substantiate that by saying, well, there are seven broad areas that we are exempting, and then if that is not enough, we get down to the point where we say, "and the Secretary can exempt anybody else," so we could end up no one