

participate, with the purpose of determining whether such assessments yield valid and reliable State representative data; and

"(III) include in each such sample assessment described in subclauses (I) and (II) students in public and private schools in a manner that ensures comparability with the national sample."; and

(C) in clause (vi) (as redesignated by subparagraph (A)), by striking "paragraph (C) (1) and (ii)" and inserting "clauses (i), (ii) and (iii)".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 405(f)(1) of the General Education Provisions Act (20 U.S.C. 1221e(f)(1)) is amended by striking "1993" and inserting "1994".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 801, the Senate bill just passed.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV. Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

□ 1250

RELIGIOUS FREEDOM RESTORATION ACT OF 1993

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1308) to protect the free exercise of religion.

The Clerk read as follows:

H.R. 1308

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 "Religious Freedom Restoration Act of 1993".

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

(a) FINDINGS.—The Congress finds—

- (1) the framers of the American Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution;
- (2) laws "neutral" toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise;
- (3) governments should not burden religious exercise without compelling justification;

(4) in *Employment Division of Oregon v. Smith* the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion; and

(5) the compelling interest test as set forth in *Sherbert v. Verner* and *Wisconsin v. Yoder* is a workable test for striking sensible balances between religious liberty and competing governmental interests.

(b) PURPOSES.—The purposes of this Act are—

(1) to restore the compelling interest test as set forth in Federal court cases before Employment Division of Oregon v. Smith and to guarantee its application in all cases where free exercise of religion is burdened; and

(2) to provide a claim or defense to persons whose religions exercise is burdened by government.

SEC. 3. FREE EXERCISE OF RELIGION PROTECTED.

(a) IN GENERAL.—Government shall not burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).

(b) EXCEPTION.—Government may burden a person's exercise of religion only if it demonstrates that application of the burden to the person—

(1) furthers a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) JUDICIAL RELIEF.—A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

SEC. 4. ATTORNEYS FEES.

(a) JUDICIAL PROCEEDINGS.—Section 722 of the Revised Statutes of the United States (42 U.S.C. 1998) is amended by inserting "the Religious Freedom Restoration Act of 1993," before "or title VI of the Civil Rights Act of 1964".

(b) ADMINISTRATIVE PROCEEDINGS.—Section 504(b)(1)(C) of title 5, United States Code, is amended—

(1) by striking "and" and at the end of clause (ii);

(2) by striking the semicolon at the end of clause (iii) and inserting "; and"; and

(3) by inserting "(iv) the Religious Freedom Restoration Act of 1993" after clause (iii).

SEC. 5. DEFINITIONS.

As used in this Act—

(1) the term "government" includes a branch, department, agency, instrumentality, and official (or other person acting under color of law) of the United States, a "State" or a subdivision of a State;

(2) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States;

(3) the term "demonstrates" means meets the burdens of going forward with the evidence and of persuasion; and

(4) the term "exercise of religion" means exercise of religion under the first article of amendment to the Constitution of the United States.

SEC. 6. APPLICABILITY.

(a) IN GENERAL.—This Act applies to all Federal and State law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after the enactment of this Act.

(b) RULE OF CONSTRUCTION.—Federal statutory law adopted after the date of the enactment of this Act is subject to this Act unless such law explicitly excludes such application by reference to this Act.

(c) RELIGIOUS BELIEF UNAFFECTED.—Nothing in this Act shall be construed to authorize any government to burden any religious belief.

SEC. 7. ESTABLISHMENT CLAUSE UNAFFECTED.

(a) IN GENERAL.—Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the First Amendment prohibiting laws respecting the establishment of religion. Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause of the First Amendment, shall not constitute a violation of this Act.

(b) DEFINITION.—As used in this section, the term "granting government funding, benefits, or exemptions" does not include a denial of government funding, benefits, or exemptions.

The SPEAKER pro tempore. (Mr. MAZZOLI). Pursuant to the rule, the gentleman from Texas (Mr. BROOKS) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. HYDE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1308, the Religious Freedom Restoration Act of 1993, reflects a commitment to one of our most cherished freedoms—the right to practice one's faith without undue interference at the hands of the Government. It will restore the standard for addressing claims under the free exercise clause of the first amendment as it was prior to the Supreme Court's *Smith* decision in 1990. Under longstanding constitutional principles, any governmental burden on the free exercise of religion was subject to the strictest test of constitutional scrutiny. In order to satisfy the free exercise clause, Government had to demonstrate that it had a compelling State interest in burdening the free exercise of religion and that it used the least restrictive means of furthering that interest.

In *Smith*, the Supreme Court abandoned the compelling State interest test in favor of a much weaker standard of review. H.R. 1308 statutorily reinstates the strict test that was in place prior to *Smith*.

The Supreme Court's decision 3 years ago transformed a most hallowed liberty into a mundane concept with little more status than a fishing license—thus subjecting religious freedom to the whims of Government officials. That, indeed, has been the sorry legacy of the Court's view of this matter. Passage of this legislation is the only means to restore substance to the constitutional guarantee of religious freedom.

I commend Mr. EDWARDS, chairman of the Subcommittee on Civil and Constitutional Rights, for his steadfast dedication to religious freedom, and Mr. HYDE, the ranking member on the subcommittee, who was instrumental

in ensuring the remarkable breadth of support for the bill. I also congratulate Mr. SCHUMER, who introduced the legislation and has guided it well.

Finally, I want to note the unprecedented coalition of religious denominations and civil rights groups who have united to stand up for the liberty given meaning by this bill. I am proud of how such marvelous diversity was united by a shared view of the place and role of religion in our society. I urge the approval of this legislation.

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

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the distinguished ranking Republican on the Committee on the Judiciary, the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, the ability of men and women of faith to freely practice their religion as guaranteed by the first amendment was seriously threatened by the 1990 decision of the U.S. Supreme Court in *Employment Services Division versus Smith*. In response to the Smith decision, a broad and unprecedented coalition of religious groups including the American Jewish Congress, the Church of Jesus Christ of Latter-day Saints, the Christian Life Commission of the Southern Baptist Convention, and the National Council of Churches have come together to support enactment of the Religious Freedom Restoration Act.

In *Smith*, the U.S. Supreme Court abandoned the compelling State interest test which had been applied by the Supreme Court and lower Federal courts for almost 30 years. Prior to *Smith*, Government actions which hindered religious practices were required to be justified by a compelling interest, that is, an interest of the highest order. As a result of *Smith*, Government actions which impede religious worship or other legitimate religious activities now need only be rationally related to a legitimate governmental interest—a far weaker constitutional standard. Even long established religions have expressed grave concerns over this loss of constitutional protection.

Since *Smith* was decided in 1990, individuals seeking to practice their religion, unhampered by Government action, have largely been without recourse. The Religious Freedom Restoration Act will provide them with a means to challenge Government regulations which unnecessarily burden the free exercise of religion.

The legislation will guarantee that all Americans, regardless of their particular creed or path, are able to enjoy the right to worship and practice their faith, from unnecessary Government intrusion.

Mr. Speaker, I urge my colleagues to support this legislation. I congratulate my colleagues on the Committee on the Judiciary for bringing us this legislation today.

Mr. BROOKS. Mr. Speaker, I yield 4 minutes to the distinguished chairman

of the Subcommittee on Civil and Constitutional Rights, the gentleman from California [Mr. EDWARDS].

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

Mr. EDWARDS of California. Mr. Speaker, this has been a long and arduous task to be able to come today before this body and ask for the enactment of the Religious Freedom Restoration Act of 1993.

As my chairman explained, it was an unfortunate decision of the Supreme Court in 1990 that put religious freedom in jeopardy in our country.

Our former Member, Steve Solarz of New York, introduced the original bill about 3 years ago. And ever since then, we have been working on it.

We are grateful to the gentleman from New York [Mr. SCHUMER] and to our colleague, the gentleman from California [Mr. COX] for introducing the bill again this year and helping us negotiate with the various parties so we could have virtual unanimity.

Of course, I thank the gentleman from Illinois [Mr. HYDE], who has been splendid in helping to reconcile the various differences, and the differences were real, and the other members of the subcommittee, including the gentleman who will speak, the gentleman from New York [Mr. NADLER], and the splendid minority and majority staffs.

This is a very, very important bill. People say, "Well, why is it so important?"

Let me just point out things that have happened that violate religious freedom, since the 1990 *Smith* decision.

Autopsies have been unnecessarily and wrongly performed upon the Hmong and Jewish deceased in violation of strong religious feelings that autopsies should not be performed.

For example, the Amish in Minnesota. It is an important part of their religious freedom that their buggies—we have seen them, Mr. Speaker, the buggies of the Amish, driving along the country roads—be very plain. That has religious significance to the Amish.

And yet the State of Minnesota, I believe, or maybe it was the local ordinance, required the Amish to put a light on the buggies, a fluorescent light, in violation of the religious freedom of the Amish people. And they had to finally seek State help, the State constitution, to rescue them from this violation.

And so here is another case. I think it is important to see the examples of why this bill is needed. A Federal investigator was fired because it was against his religion to do a certain investigation of a pacifist group.

And so certainly, there is no peril to the Government. It was a violation of his religious freedom, and this bill would not allow outrages like this to happen.

The right to free exercise of religion is the first constitutional protection enumerated in the Bill of Rights. Despite this clear constitutional mandate, the United States has a troubling

history of unintentionally undermining religious practices. However, since the Supreme Court's 1963 decision in *Sherbert versus Verner*, the courts have protected religious exercise unless the Government could articulate a compelling reason to do otherwise. It was not until the Supreme Court's April 1990 decision in *Oregon versus Smith*, that the first amendment's guarantee of free exercise of religion was seriously threatened.

The *Smith* case is important because the Court, without being asked by either litigant, lowered the standard under which free exercise claims are reviewed. By invoking a new, low level standard of review for these claims, the Court removed an important barrier to the very real, though unintentional, burdening of religion.

The Religious Freedom Restoration Act of 1993 simply restores the compelling governmental interest test. This test has never meant, nor will it ever mean that religious claimants will always win their cases. Rather, it gives those who successfully assert a burden on their exercise of religion a chance to protect that religious practice.

I, as many members on both sides of the aisle, believe the passage of the Religious Freedom Restoration Act is the right thing to do. I would also like to thank the coalition of secular and religious organizations supporting this legislation. The coalition represents the diversity of the American population and is symbolic of the wide range of interests the Constitution seeks to protect. I would like to specifically express my gratitude to Oliver Thomas, Rabbi David Saperstein, Forest Montgomery, Elliot Minceburg, Robert Peck, and Judy Golub.

I urge you to vote for this important piece of legislation.

□ 1300

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think accolades are certainly due to the chairman of the full committee, the gentleman from Texas, JACK BROOKS, and the chairman of the subcommittee, the gentleman from California, DON EDWARDS, who helped get this bill to the point where it can be passed today over many difficult compromises and discussions, but their patience and their intelligence and their good will paid off.

I should mention Melody Barnes and Alan Erenbaum, counsel, who spent many hours working with our counsel, Kathryn Hazeem, in resolving the many difficulties inherent in this bill.

The Religious Freedom Restoration Act will overturn the 1990 decision of the U.S. Supreme Court in *Employment Division versus Smith*. *Smith* held that neutral laws of general application that incidentally burden religious exercise do not violate the free exercise clause of the first amendment to the U.S. Constitution.

H.R. 1308 will replicate the compelling state interest test for the adjudication of free exercise claims which was in place prior to the Supreme Court's decision in *Smith*.

When this legislation was considered by the Subcommittee on Civil and Constitutional Rights and the full Judicial

ary Committee in the 102d Congress, I offered several amendments. These amendments were designed to address concerns I had with respect to abortion-related claims, third-party challenges to church-run social service programs, and challenges to the tax-exempt status of religious institutions. Since that time, my concerns have been resolved either through explicit statutory changes or through committee report language.

A major issue of contention in the 102d Congress was whether the bill was a true restoration of the law as it existed prior to Smith or whether it sought to impose a more stringent statutory standard. Of course, the label restoration is inappropriate in this context since the Congress writes laws—it does not and cannot overrule the Supreme Court's interpretation of the Constitution. We are unable to restore a prior interpretation of the first amendment. H.R. 1308 is a proposed Federal statute and its meaning will be determined by its plain language and, to some extent, by the intent of Congress in enacting it.

Several changes were made to the bill during the Judiciary Committee markup in late September 1992 and prior to the bill's introduction in the 103d Congress. These changes make clear that the statutory standard of the Religious Freedom Restoration Act is the same free exercise standard that was applied by the U.S. Supreme Court prior to Smith.

The intended standard of the bill was of particular concern to me in the area of abortion rights. I have been deeply concerned that the Religious Freedom Restoration Act would create an independent statutory basis to challenge abortion restrictions that does not exist under current law. The bill now clearly imposes a statutory standard that is to be interpreted as incorporating all Federal court cases prior to Smith. The one successful district court free exercise challenge to an abortion funding restriction prior to Smith was rejected by the U.S. Supreme Court in *Harris v. McRae*, 448 U.S. 297 (1980). In that case the Court stated that none of the parties had standing to sue because "none had alleged, much less proved, that she sought an abortion under compulsion of religious belief." Because free exercise challenges to abortion restrictions were ultimately unsuccessful prior to Smith, I am confident that although such claims may be brought pursuant to the Act, they will be unsuccessful.

Individuals seeking to challenge abortion restrictions should not look to the Religious Freedom Restoration Act, but to Planned Parenthood versus Casey which describes how claims pertaining to abortion are resolved. We want to make it absolutely clear, that this bill does not expand, contract, or alter the ability of a claimant to obtain relief in a manner consistent with the Supreme Court's free exercise jurisprudence prior to Smith.

Language has also been added to resolve concerns about application of the act to social service programs operated by religious institutions with public funds and possible challenges to the tax-exempt status of religious institutions. The new language, found in section 7 of the bill, makes clear that such claims are not the appropriate subject of litigation under the Religious Freedom Restoration Act.

The changes made to the bill as introduced in the 103d Congress make clear that the Religious Freedom Act is not seeking to impose a new and strengthened compelling State interest standard, but is seeking to replicate, by statute, the same free exercise test that was applied prior to Smith.

In conclusion, the Religious Freedom Restoration Act will not guarantee that religious claimants bringing free exercise challenges will win, but only that they have a chance to fight.

Mr. Speaker, I wonder if I might engage the gentleman from New Jersey [Mr. HUGHES] in a colloquy.

Mr. Speaker, I would ask the gentleman, it is my understanding that prior to 1987 many courts evaluated free exercise challenges by prisoners under the compelling governmental interest test. The courts considered not only the exercise of religion, but also the difficulty of the prison officials' task of maintaining order and protecting the safety of prison employees, visitors, and inmates. Is it the gentleman's understanding that challenges of prison regulations were generally not successful, even under a strict scrutiny standard of review?

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding to me. Mr. Speaker, that is also my understanding, I might say to my colleague. Religious liberty claims in a prison context present far different problems for the operation of those institutions than they do in civilian settings. Ensuring the safety and orderliness of prisons has repeatedly been recognized as a compelling governmental interest.

Mr. HYDE. I ask the gentleman, is there anything in this bill that would somehow make courts less likely to find that a State has a compelling interest in maintaining order and discipline in its correctional facilities?

Mr. HUGHES. Mr. Speaker, if the gentleman will continue to yield, there is absolutely nothing in this bill which suggests that courts should not view prison regulation as a governmental interest of the highest order, which has always been the case.

Mr. HYDE. Mr. Speaker, I certainly thank the gentleman, and I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BROOKS asked and was given permission to revise and extend his remarks, and include extraneous matter).

Mr. BROOKS. Mr. Speaker, it is my purpose to discuss the effect of H.R. 1308 on prison administration, and I will include for the RECORD a letter from the Attorney General, Janet Reno, addressing the matter and urging support for the bill as ordered reported by the committee.

Mr. BROOKS. Mr. Speaker, I want to address any concerns Members might have about the effect of this important legislation on the administration of Federal and State prisons. In evaluating claims of prisoners under the free exercise clause, courts have always considered the difficulty of the prison officials' task of maintaining order and protecting the safety of prison employees, visitors, and inmates. This will continue to be the case under this bill.

Restoring the strict scrutiny standard of review in prison cases by no means indicates that prisoners will prevail any more frequently than they have in the past. First of all, a threshold consideration for a free exercise claim is that the religious beliefs are sincerely held—and prisoner suits are often thrown out of court on a finding that the supposed beliefs are really manufactured pretenses. Second, many prison regulations have been found to impose only an incidental burden on a prisoner's ability to practice his or her religion—a finding which would preclude a claim under this bill.

Third, religious liberty claims in prison settings pose far more serious problems for the operation of those institutions than they do in civilian settings. Ensuring the safety and orderliness of prison institutions has been recognized as a governmental interest of the highest order, and this is unaffected under the bill.

Mr. Speaker, the Nation's chief law enforcement officer, Attorney General Janet Reno, has also looked at this question, and has come to the conclusion that the provisions of the Religious Freedom Restoration Act are compatible with the safe, effective, and efficient administration of our prison system. In a letter to me today, she stated that

Concerns have been expressed that the standard of review of H.R. 1308 will unduly burden the operation of prisons and that the bill should be amended to adopt a standard more favorable to prison administrators when confronted with the religious claims of prisoners. These concerns have been presented by knowledgeable and sincere individuals for whom I have great respect, but I respectfully disagree with their position and urge the committee to approve the bill without amendment.

Under leave to include extraneous matter, I am including Attorney General Reno's letter in the RECORD in its entirety.

In short, prisoners challenging institutional rules based on religious exercise have prevailed only in extraordinary situations—even under a compelling governmental interest standard. This legislation presents no threat to the administration of our correctional institutions.

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, May 11, 1993.

HON. JACK BROOKS,
Chairman, Committee on the Judiciary, House
of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you know, I strongly support H.R. 1308, the Religious Freedom Restoration Act of 1993 and urge its swift enactment. The bill is designed to overturn *Employment Division v. Smith*, 110 S. Ct.

1595 (1990), which in my view, mistakenly rejected the balancing test of *Sherbert v. Verner*, 374 U.S. 398 (1963). According to *Sherbert*, government action that substantially burdened religious practice had to be justified by a compelling government interest. In *Smith*, however, the Court held that application of a neutral law of general applicability—even if it has the effect of burdening religious practice—does not run afoul of the Free Exercise Clause of the First Amendment. This weakening of the protection afforded one of society's most fundamental freedoms is extremely troubling and should be corrected by substituting the stronger protection afforded by H.R. 1308.

Concerns have been expressed that the standard of review of H.R. 1308 will unduly burden the operation of prisons and that the bill should be amended to adopt a standard more favorable to prison administrators when confronted with the religious claims of prisoners. These concerns have been presented by knowledgeable and sincere individuals for whom I have great respect, but I respectfully disagree with their position and urge the Committee to approve the bill without amendment.

Prior to 1987, the Supreme Court had not distinguished explicitly between the standard of review applicable to the religious claims of prisoners and those of others. In that year, for the first time, it held that a prison regulation that impinges on an inmate's right of free exercise "is valid if it is reasonably related to legitimate penological interests." *O'Lone v. Estate of Shabazz*, 482 U.S. 342, 349 (1987); quoting *Turner v. Safley*, 482 U.S. 78, 89 (1987). Thus, the Court had abandoned the compelling interest standard regarding inmate claims only a few years prior to doing so for the general population in *Smith*.

Prisons had operated under *Sherbert* for a number of years before *O'Lone* and *Turner* adopted a standard that is plainly less accommodating to the prisoners' exercise of religious rights. During that period, prisoners attempted to gain privileges based on fabricated free exercise claims. Not surprisingly, those types of claims have continued even under the standard of *O'Lone* and *Turner*. They will doubtless continue whether H.R. 1308 becomes law or not.

In my view the four dissenters in *O'Lone* had the better of the argument. They would have required prison administrators to demonstrate that the restrictions imposed in the case—preventing certain Muslims from attending a religious service central to their faith—furthered a compelling government interest and were no greater than necessary to achieve legitimate penological objectives. This standard parallels that incorporated in H.R. 1308.

Certainly, the strong interest that prison administrators and society in general have in preserving security, order, and discipline in prison will receive great weight in the determination whether the government meets the compelling interest test when there is a claim that exercise of religious rights is burdened and whether it has pursued the least restrictive means of doing so. Activities that are presumptively dangerous or carry a demonstrable likelihood of jeopardizing discipline within a prison will continue to be subject to regulation after enactment of H.R. 1308.

Likewise, prison administrators will retain authority, in many instances, to regulate the time, place, and manner of an inmate's exercise of religion. Restrictions that do not deny inmates the opportunity to engage in otherwise permissible religious practice, but merely require them to pursue such activities within the context of prison life, likely

will not substantially burden inmates' free exercise rights and will be permissible.

I therefore, strongly urge the Committee to approve H.R. 1308 without amendment.

Sincerely,

JANET RENO.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HUGHES).

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

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of the Religious Freedom Restoration Act. It is a good bill. I urge my colleagues to support it.

Mr. Speaker, today, the House is considering the Religious Freedom Restoration Act. This bill is intended to ensure that governmental regulations and laws do not unduly interfere with the freedom to practice one's choice of religion in this country.

For many years, the Supreme Court evaluated governmental actions with respect to religious practices on the basis of whether the governmental entity had a compelling state interest in imposing on the religious practice. Unfortunately, this strict standard was abandoned by the U.S. Supreme Court in a 1990 decision.

For the past 3 years, a large number of groups have worked together to respond to that decision. Their efforts have resulted in a narrowly drawn bill being considered today which is intended to restore the standard of review in religious cases to that of a compelling interest. This bill has wide support on a bipartisan basis.

There are now last minute claims that passage of this legislation would create a severe problem for prison officials in their ability to control and manage prison institutions. If a compelling interest has to be established, the opponents argue that they will never be able to justify control of certain religious practices.

This fear is unfounded, as Attorney General Janet Reno has noted in her letter to the chairman of the Judiciary Committee dated today. Prior to 1990, there was no significant problem experienced by prison systems in providing that a State's correctional policy was justified under a compelling State interest. Under this legislation, that same conclusion would prevail. The applicable standard would still ensure that State and Federal prison officials would be able to guarantee the safety and security of prisons while permitting the practice of religion as guaranteed under the U.S. Constitution.

Mr. BROOKS. Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it was interesting to hear the gentleman from California [Mr. EDWARDS] allude to the Amish in Pennsylvania as a prime example of

the efficacy of the law which we are about to pass. He is absolutely correct. As a matter of fact, the Commonwealth of Pennsylvania was founded by William Penn, who, with his Quaker background and with all the rationale that existed at that time in his sect in England, was the basic reason that they came to the shores of our country in the first place. The entire Commonwealth is steeped in the tradition of religious freedom, stemming from its first charter.

Today, in Lancaster County, where Mr. WALKER and I share a constituency, the remnants of those particular plain sects to which the gentleman from California alluded are thriving, and everyone seeks in various ways to make sure that their ultimate right to practice their religion is protected.

I support the legislation, and say, as a matter of record, that in my district, and I am sure it is true in every one of the districts of the Members here, the diversity of our citizenship is not more clearly reflected than in the religious diversity in the community. One need only have to go through one's district and look at the different churches or houses of worship of the various denominations and recognize the fulsome diversity that exists, without ever having to study the demographics of a particular district.

We are sanctifying today that diversity and religious freedom, and we urge the passage of this legislation.

□ 1310

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. NADLER].

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

Mr. NADLER. Mr. Speaker, I rise in support of the Religious Freedom Restoration Act. This landmark legislation will overturn the Supreme Court's disastrous decision, *Employment Division versus Smith*, which virtually eliminated the first amendment's protection of the free exercise of religion.

As the Representative of one of the most religiously diverse Congressional districts in the country, I believe that this legislation must be given top priority. In the communities I represent, Jews from Syria, the former Soviet Union and Iran live alongside Catholics from Ireland, Italy, and Latin America, Evangelical Christians and Baptists and many others.

What has made the American experiment work—what has saved us from the poisonous hatreds that are consuming other nations—has been a tolerance and a respect for diversity enshrined in the freedom of religion clauses of our Bill of Rights. It was no accident that the Framers of our Bill of Rights chose to place the free exercise of religion first among our fundamental freedoms. This House should do no less.

Unless the *Smith* decision is overturned through the speedy enactment of the Religious Freedom Restoration

Act, the fundamental religious rights of all Americans, to keep the Sabbath, to use wine in religious ceremonies, to observe religious dietary laws, to be free from unnecessary autopsies, to worship as their consciences dictate—will remain threatened.

Indeed, even Justice Scalia, writing for the majority in *Smith*, acknowledged that "[i]t may fairly be said that leaving accommodation to the political process will place at a relative disadvantage those religious practices that are not widely engaged in." Our experience in the 3 years since *Smith* has demonstrated that religious minorities—and even majority religions—have been placed at a tremendous disadvantage. The rights of religious Americans in every State have been violated as a result of this decision.

If there is a shared American value it is the commitment to religious liberty. The American people have waited long enough for the restoration of their first freedom. I urge my colleagues to vote for the Religious Freedom Restoration Act.

Mr. Speaker, I thank the chairman of the subcommittee and the full committee and the ranking minority members for their diligence in bringing this legislation to the floor.

Mr. GEKAS. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia [Mr. GOODLATTE].

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

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding me this time and for his support of this important measure. And I also compliment the gentleman from Texas [Mr. BROOKS], the distinguished chairman of the Judiciary Committee, and the gentleman from New York for their support of this truly bipartisan measure.

Mr. Speaker, "Congress shall make no law * * * prohibiting the free exercise of religion." We have all heard and read these words in the first amendment. Unfortunately, the U.S. Supreme Court has allowed serious erosion of this right.

For over 200 years every family or individual who has lived in our great Nation has been free to follow their religious beliefs without threat of government interference because of this first amendment protection. However, since the Oregon Employment Division versus *Smith* ruling, over 50 court cases have been decided against religious groups or individuals acting upon their religious beliefs.

Clearly this situation must be reversed. That is why I urge support of the Religious Freedom Restoration Act, which would restore higher constitutional protection for our religious liberty.

Included in the broad and diverse coalition supporting this important bill are the United Methodist Church, the National Association of Evangelicals, the American Jewish Congress, Pres-

byterian Church U.S.A., United Church of Christ, American Association of Christian Schools, Episcopal Church, Church of the Brethren, and 50 other diverse organizations representing nearly every major religious organization in the country.

The deeply held desire to worship their God free of government intrusion drove the Pilgrims in small wooden boats across the dangerous Atlantic Ocean and to a hostile wilderness of the New World almost four centuries ago. Their courage, convictions, and tenacity, coupled with the blessings of God, allowed them to help create the greatest country on Earth. We owe it to our heritage and to our children and grandchildren to protect these religious freedoms won at such great cost.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. SCHUMER], chairman of the Subcommittee on Crime and Criminal Justice.

Mr. SCHUMER. Mr. Speaker, as the lead sponsor of the Religious Freedom Restoration Act, along with the gentleman from California [Mr. COX], I want to thank Chairman EDWARDS for his work on this bill and support in bringing the bill to the House today. I also want to thank and give special mention to the efforts of Steve Solarz, who originally introduced this bill in the 101st Congress, and his support for religious freedom first brought this issue to the Congress.

As we all know, the first amendment guarantees the right of free exercise of religion, and traditionally the Supreme Court interpreted that guarantee to mean religious freedom can be infringed only when Government has a compelling interest to do so. And this was sort of an exquisite balance, one of the times that it works out almost just right in Anglo-Saxon jurisprudence when the Government really had a compelling interest. Yes, they could infringe on religion, and when they did not we would let the religious issue predominate, and it made eminent sense. It was working admirably well.

But in 1990, in the infamous case known as the *Smith* case, the Supreme Court changed the standard radically and said that the Government only had to show a legitimate interest in order to burden religion, unless the religious practitioners could show they were directly targeted for persecution. In my opinion, that decision rubbed against totally the American grain of allowing maximum religious freedom. Of course when the Government had a compelling interest, that is where it should stop. But up to that point, why not let religious freedom bloom?

But, incomprehensibly, Justice Scalia's decision explained that requiring the Government to accommodate religious practice was a luxury. Tell to millions and millions of Americans that religion is a luxury, and I think we get the reaction that we have had universally here on the floor from the

most liberal to the most conservative Member.

Smith was a devastating blow to religious freedom, and we are trying to undo it. Under *Smith*, the practice of using sacramental wine, wearing a yarmulke, Kosher slaughter and many other religious practices all could be jeopardized.

The parade of horrors had already begun. In the 3 years since the case, evangelical store-front churches have been zoned out of commercial areas and Orthodox Jews and the H'mong people have been subjected to autopsies in violation of their religious faiths.

Quite simply, we cannot allow this to continue. The Founders of our Nation, the American people today know that religious freedom is no luxury, but is a basic right of a free people.

The bill will restore the first amendment to its proper place as one of the cornerstones of our democracy. It is simple. It states that the Government can infringe on religious practice only if there is a compelling interest and if the restriction is narrowly tailored to further that interest.

I want to thank everyone for their broad and bipartisan support, the dozens of religious groups from across the spectrum, the Agudath Israel of America, the Baptist Joint Committee, the National Association of Evangelicals, and the National Religious Action Committee, as well as President Clinton and the Attorney General for their support of this bill. I urge my colleagues to join me today as we strike a blow for religious freedom. We should vote to restore one of this country's cherished traditions by voting for the Religious Freedom Restoration Act.

Mr. GEKAS. Mr. Speaker, I yield such time as he might consume to the gentleman from Georgia [Mr. LINDER].

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

Mr. LINDER. Mr. Speaker, I am delighted that the Religious Freedom Restoration Act has reached the House floor today, and I look forward to joining my colleagues in restoring the traditional protections for religious liberty guaranteed in the first amendment of our constitution.

In response to the *Smith* case, my constituent, in the Fourth District of Georgia, expressed to me the negative impact that this case has had—and will have—on their first amendment rights. We must protect the religious rights of our citizens, and it was for these reasons that I joined as an original co-sponsor of this legislation. Our Founding Fathers created a document that would last through the ages, and this act is our opportunity to assure that the protection of free religious exercise remains an inalienable right for persons of all religious faiths.

This act does not create special protections for any particular religion. This act does not mean that religious claims in court will succeed at all times. The Religious Freedom Restora-

tion Act simply states that the Government may not regulate the religious practices of its citizens unless the Government demonstrates that there is a compelling interest, and the Government action is the least restrictive means of furthering that interest.

While generations of Americans have been indebted to our Founding Fathers because they had the wisdom to protect the free exercise of religion in the first amendment, today, we are thankful that they also had the foresight to entrust the legislative branch of the United States with the power to protect the rights and liberties that we, as Americans, enjoy. Today, we have the opportunity to fulfill our constitutional duty to protect this cherished right for ourselves and our posterity.

□ 1320

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. HOYER], a member of the Committee on Appropriations and chairman of the Democratic caucus.

Mr. HOYER. Mr. Speaker, I thank the chairman for yielding this time to me.

I commend the chairman, the gentleman from Texas [Mr. BROOKS], the gentleman from California, [Mr. EDWARDS], and the ranking member of the committee for their action on this bill.

Mr. Speaker, to restore freedom is always timely, to restore in particular the rights that Americans hold so sacred under the first amendment and in particular the right to practice their religion as they see fit.

Mr. Speaker, after all, it was that right that was hallmark to the founding of this country, and it was that right that in many respects made us unique in the world.

Mr. Speaker, in Maryland we have the Religious Toleration Act of 1648, one of the first enunciations in our Nation that the practice of religion ought to be unfettered by Government, except if there is a compelling reason.

I want to say to our former colleague, the gentleman from New York, Mr. Steve Solarz, who led the fight for this early on, that his efforts will be realized today as will the efforts of Chairman BROOKS, the gentleman from New York [Mr. SCHUMER], and others. This is a bill whose time not only has come but was for many years prior to the Smith decision.

In my prepared remarks I call this one of, and some would say it is, the most important bill affecting religious liberty in our lifetime. That is an expansive statement, but I think it correctly enunciates the impact of this bill. It is appropriate, Mr. Speaker, that we restore this sacred right for every American.

I am pleased to rise in strong support of this legislation.

Mr. Speaker, I rise today in very strong support of H.R. 1308, the Religious Freedom Restoration Act. I would like to thank and commend the chairman of the Subcommittee on

Civil and Constitutional Rights [Mr. EDWARDS], for his tireless work on this bill and the chairman of the Judiciary Committee [Mr. BROOKS], for expeditiously bringing this bill to the floor for consideration.

H.R. 1308 is one of the most important bills affecting religious liberty in our lifetime. The Religious Freedom Restoration Act will restore the traditional requirement that Government demonstrate a compelling interest before restricting religious practices. That requirement was scrapped by the Supreme Court in the Employment Division of Oregon versus Smith case, when the Court held that Government actions can burden a person's exercise of religion as long as the Government had a legitimate purpose and are not aimed at suppressing religion. This ruling did great mischief to the rights of all Americans. Religious liberty was no longer a fundamental constitutional right.

Since Smith, more than 50 cases have been decided against religious claimants. Amish farmers have been forced to affix garish warning signs to their buggies, despite expert testimony that more modest silver reflector tape would be sufficient. Orthodox Jews have been subjected to unnecessary autopsies in violation of their family's religious faith and one Catholic teaching hospital lost its accreditation for refusing to provide abortion services. Evangelical churches have been zoned out of commercial districts in some cities prompting a Minnesota trial judge to remark that churches have no more constitutional rights than adult movies theaters.

Today Mr. Speaker, we have an opportunity to correct these injustices. We can restore the Nation's first amendment and religious liberty to its rightful preeminence.

I want to thank the President and the Attorney General for their support. And, I commend the coalition for the free exercise of religion—the 60 religious and civil liberties groups—for their willingness to lay aside their political agendas in order to unite in a common vision for the common good—religious liberty for all Americans.

I urge all my colleagues to support this legislation.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. ORTON] a leader of the Mormon community.

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

Mr. ORTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as an original cosponsor of H.R. 1308, I urge my colleagues to join me in reaffirmation of the first amendment by the passage of this legislation.

Mr. Speaker, I rise today in support of H.R. 1308, the Religious Freedom Restoration Act. The U.S. Supreme Court seriously eroded the first amendment guarantee of freedom of religion when, in Employment Division versus Smith 1990, they abandoned the compelling government interest test on all Government action burdening a person's exercise of his or her religion. Although it would be preferential for the Supreme Court to reverse the Smith case and restore the full constitutional dimensions of the first amendment protection of

freedom of religion, I believe that this statutory restoration of the compelling governmental interest standard is both a legitimate and a necessary response by Congress to the degradation of religious freedom resulting from the ruling in the Smith case.

Freedom of religion is one of the most fundamental truths upon which this great Nation was established. I am a member of a church whose people were once cruelly persecuted and I remember the anguish of my ancestors who were driven from their homes because the Government of this Nation condoned oppression.

Last year during testimony before the House Judiciary Subcommittee on Civil and Constitutional Rights Elder Dallin H. Oaks, apostle of the Church of Jesus Christ of Latter Day Saints, could not have stated it more clearly when he said:

The conflict between individual rights to freely worship God and Government attempts to regulate or interfere with religious practices remains today. For decades the United States Supreme Court adhered to the first amendment guarantee of free exercise by requiring the State to demonstrate a compelling governmental interest before interference with religious freedom would be tolerated. This test struck an appropriate balance between the needs of Government to establish rules for the orderly governance of our society and the rights of citizens not to be unduly restricted in their religious practices. In those instances where elected officials approved laws which interfered with a specific religious practice, they had to sustain the burden of justifying their action by identifying a compelling government reason or interest for doing so * * * the compelling governmental interest test provided an essential protection for the free exercise of religion. Such protection is vital. There is nothing more private or personal than the relationship of an individual to his or her God. There is nothing more sacred to a religious person than the service or worship of God * * * if past is prolog, the forces of local, State and Federal governmental power, now freed from the compelling governmental interest test, will increasingly interfere with the free exercise of religion. We fear that the end result will be a serious diminution of the religious freedom guaranteed by the United States Constitution * * * the Bill of Rights protects principles, not constituencies. The worshippers who need its protections are the oppressed minorities, not the influential constituent elements of the majority.

I urge my colleagues to support H.R. 1308 and join me in reaffirmation of the first amendment. Freedom to worship God according to the dictates of one's own conscience is still a fundamental right of our society.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. TUCKER].

Mr. TUCKER. Mr. Speaker, I thank the chairman for yielding this time to me.

Mr. Speaker, today I rise in strong support of H.R. 1308, the religious freedom restoration Act. This act merely seeks to reflect what had been the constitutional standard prior to the ruling in Employment Division versus Smith. Justice Sandra Day O'Connor stated in her concurring opinion that "Today's holding dramatically departs from well-settled first amendment jurisprudence, and is incompatible with our Nation's fundamental commitment to

individual religious liberty." Mr. Speaker, I agree and would encourage my colleagues to reverse this ill-advised decision by supporting the tenet contained in H.R. 1308, that only a compelling State interest should justify the denial of the free exercise of one's religion. If the first amendment means anything at all, it means the freedom to believe and the freedom to worship. To deny a citizen the right to practice his religion, the State should have nothing less than a compelling interest in doing so.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

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

Mr. VENTO. I thank the chairman for yielding this time to me.

Mr. Speaker, I want to credit the Committee on the Judiciary, led by the gentleman from Texas [Mr. BROOKS] for their work on the measure before the House.

Mr. Speaker, I think this is an opportunity, to reaffirm our support for the Constitution, and the religious freedom that is inherent in the Bill of Rights, and the practices and laws of our country for the past 200 years.

I think that most of us who are yet students of law—not lawyers—obviously understand the dynamic nature of the court decision process. Today the balance is tipped against the exercise of religion and especially against those that need the protection of our Constitution and our laws, those that are minorities in our society, either ethnically, as my colleagues mentioned, the native Americans groups, the Hmong a significant population that I represent in St. Paul, MN, a significant Southeastern Asian population, or other ethnic groups, and/or other minority religious groups such as the groups to whom we have referred, whether they are people who practice the Jewish faith, Mormons or the many other religious groups that exist in our Nation.

Frankly, as we look at that challenge for us as a nation in writing law and establishing policy government interference really should have overwhelming justification. Today that is not the case. The balance is restored in the measure before the House by making the test by a compelling interest and as to the least restrictive means of attaining the Government's objective with regard to law. I hope that this balance will be restored with this change. I am pleased to note that my colleagues in the Congress have acted with great sensitivity and conscientious effort to try to make sure that our laws are evenhanded, especially as it affects this cherished right of religious freedom.

I urge my colleagues to join the Committee on the Judiciary and the lead sponsor, CHUCK SCHUMER, and other cosponsors such as myself in supporting this meritorious measure.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

(Mrs. LOWEY asked and was given permission to revise and extend her remarks.)

Mrs. LOWEY. Mr. Speaker, one of the fundamental freedoms on which our Nation was founded is in jeopardy. The religious liberties which were a driving force behind the formation of this Nation have been seriously eroded by the court ruling in Oregon versus Smith and subsequent cases. Only enactment of the Religious Freedom Restoration Act can repair the damage done and give Americans confidence that their right to observe their own religious beliefs is secure.

Throughout our history, America has always been a haven for those who have feared religious persecution. At the time of the establishment of the American colonies, there was no country in Europe without a state church, and unity of religion was considered essential to the unity of the state. Those whose faiths differed from the officially designated religion were prevented from practicing their own religions and observing their own spiritual beliefs.

But in the United States, we have always cherished our religious liberties. The freedom to practice one's religious beliefs is enshrined in the first amendment to our Constitution, and it is experienced every day in the diversity of our society. Indeed, our goal in setting public policy has and must always be to accommodate religious diversity to the maximum extent possible. To do otherwise would be to abandon our heritage and to turn our Constitution on its head.

But the Supreme Court of the United States in Oregon versus Smith found that States do not have to show a compelling interest in restricting a religious practice. After two centuries of commitment to the protections of religious freedom and understanding that true freedom of religion can only be possible if we are willing to go the extra mile to respect the beliefs of others, this decision and others have undermined the willingness to accommodate the religious beliefs of others.

In Michigan, an autopsy was performed on the body of an orthodox man because State law there requires autopsies for all violent deaths. His orthodox faith prohibits autopsies and there was no mystery surrounding his death. He died in an auto accident. But the court found that the State could perform an autopsy with no compelling reason.

In another case, an Ohio court held that an individual could not display a cross on her own front lawn. According to the court, the Smith decision enabled the State to prevent, without any compelling reason, people from displaying religious articles. In other areas, individuals have been prevented from wearing yarmulkes, crosses, or rosaries, and courts, citing Smith refused to defend their rights.

Rulings such as these risk making a mockery of our religious liberties, and—in light of these pernicious rulings—we must ask ourselves what might be next if we do not act? Will it be permissible to tell a mashglach how a kosher chicken should be cut? Will it be acceptable for the EPA to tell priests how to handle holy water?

This legislation is a simple reaffirmation of our strong commitment to religious liberty in the fullest sense. It states, without equivocation, that there must be a compelling public reason—health, safety, or the like—before religious traditions or observances would be subject to Government restrictions. That is, as it should be, in this land of religious liberty.

Mrs. LLOYD. Mr. Speaker, I rise in support of the Religious Freedom Restoration Act. This legislation is important in restoring the protection for the exercise of religion that existed prior to the Oregon Employment Division versus Smith decision in 1990.

When our forefathers drafted the Constitution of the United States, they put forth an underlying premise that no person shall be denied life, liberty, and the pursuit of happiness. In codifying this premise our forefathers incorporated language in the first amendment that specifically addresses the rights that shall be enjoyed by all Americans, including the exercise of religion. Congress shall make no law respecting the establishment of religion, or prohibit the free exercise thereof.

Prior to the Smith decision the courts have applied a compelling interest test that requires the Government to demonstrate that any law burdening the free exercise of religion is essential to furthering a compelling interest and is the least restrictive means of furthering that interest. However, the Smith decision abandoned the longstanding compelling interest test for evaluating whether a governmental action unconstitutionally interferes with a religious practice.

The Smith decision has sent out a clear signal to the American people that the Government no longer has to justify most burdens on religious exercise. The Religious Freedom Restoration Act would simply require States seeking to outlaw a questionable religious practice to demonstrate a compelling interest to do so.

Mr. Speaker, I find that the Smith decision places religious rights in a subcategory to other first amendment rights, such as freedom of speech and press. The exercise of religion is a fundamental right and is not to be regarded as a luxury. The Religious Freedom Restoration Act does not provide any additional rights under law, it restores the full exercise of religion established in the first amendment. This bill has bipartisan support and I would urge my colleagues to vote for the Religious Freedom Restoration Act.

Mrs. MALONEY. Mr. Speaker, I rise in strong support of H.R. 1308, the Religious Freedom Restoration Act.

I am proud to be an original cosponsor of this legislation and I believe is one of the most important bills that Congress will pass this year.

It is almost inconceivable that in 1993, the fundamental right of all Americans to the free exercise of religion is in serious jeopardy. But the sad fact is that the Supreme Court's ruling

in Employment Division versus Smith has already begun to chip away at the first freedom protected by the Bill of Rights, the freedom of religion.

I was not in Congress when I read Justice Scalia's decision in which he called freedom of religion a luxury. But like many of my colleagues who have cosponsored this bill, I was shocked by this pronouncement. After all, our Nation was founded by people who fled religious persecution and it remains the world's safe haven for those who cherish religious freedom and tolerance.

In New York City, my constituents are quite concerned about the unwarranted governmental interference with religious practices that could come about unless we overturn the Court's decision by enacting this bill. The Jewish practices of kosher slaughter and circumcision, for example, might be threatened, as might the use of ceremonial wine, which is important to many faiths. Congregations of different religions have already run afoul of zoning regulations which have banned houses of worship in particular neighborhoods.

The diverse array of religious and other public policy groups which support this bill is proof of the strong sentiment across this land that we cannot tolerate an erosion of religious liberty. Freedom of religion is a fundamental right which transcends ideological, religious, and partisan differences.

I am pleased to join with my colleagues in voting for the Religious Freedom Restoration Act and am pleased that President Clinton will sign the bill when it reaches his desk. That will be a historic day for all Americans.

Ms. PELOSI. Mr. Speaker, I rise today to express my support for H.R. 2927 the Religious Freedom Restoration Act of 1993, and to urge my colleagues to vote in favor of this measure. I commend my colleagues Representatives SCHUMER and COX for reintroducing this important legislation in the 103d Congress.

The Religious Freedom Restoration Act was drafted in response to the 1990 Supreme Court case Employment Division versus Smith. In that case, the Supreme Court discarded the free exercise rule of the first amendment and decided that general laws could deny an individual's right to the free exercise of religion.

In order to protect the constitutional rights of Americans, it is necessary to return the criteria for abridging religious freedom to pre-Smith days. Before this trial, any Government action restricting the free exercise of religion had to pass the "compelling governmental interest test" to prove that the action was essential to further a compelling Government interest.

This legislation is important because it protects an individual's religious freedom from unnecessary Government interference. It provides for the reestablishment of fair standards to determine if Government intervention is necessary.

Religious freedom is one the founding principles of this Nation. H.R. 2927 would ensure the continuation of this important principle. I hope that my colleagues will join me in supporting the protection of religious freedom by voting in favor of the Religious Freedom Restoration Act.

□ 1330

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 1308.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 1308, the bill just passed.

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

There was no objection.

GALLATIN RANGE CONSOLIDATION AND PROTECTION ACT OF 1993

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 873) entitled the "Gallatin Range Consolidation and Protection Act of 1993," as amended.

The Clerk read as follows:

H.R. 873

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 "Gallatin Range Consolidation and Protection Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that:

(1) It has been the clear policy of the Federal Government since 1925 to consolidate the checkerboard lands along the Gallatin Range north of Yellowstone National Park.

(2) These lands north of Yellowstone possess outstanding natural characteristics and wildlife habitat which give them high value as lands added to the National Forest System.

(3) Although these lands have historically remained pristine up to now, failure to consolidate at this time will in the near future lead to fragmentation and development.

(4) The Federal Government has already invested a great deal in keeping the lands along the Gallatin Range protected from excess development.

SEC. 3. PLUM CREEK LAND EXCHANGE—GALLATIN AREA.

(a) IN GENERAL.—The Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") shall, subject to the provisions of sections 4(a) and 5(a) and notwithstanding any other provision of law, acquire by exchange and cash equalization in the amount of \$3,800,000, certain lands and interests in land of the Plum Creek Timber, L.P. (hereinafter in this section referred to as the "company"), in and adjacent to the Hyalite-Percepsine-Buffalo Horn Wilderness Study Area, the Soaproot Wilderness Area, and other land in the Gallatin National Forest in accordance with this section.

(b) DESCRIPTION OF LANDS.—(1) If the company offers to the United States the fee title, including mineral interests, to approximately 37,252 and 4/100 acres of land owned by the company which is available for exchange to the United States as depicted on a map entitled

"Plum Creek Timber and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988, the Secretary shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, upon such acceptance the Secretary of the Interior shall convey, subject to valid existing rights, by patent the fee title to approximately 12,414 and 9/100 acres of National Forest System lands available for exchange to the company as depicted on such map, subject to—

(A) the reservation of ditches and canals required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal Oil and Gas Lease numbers 49739, 55610, 40389, 53670, 40215, 33385, 53735, and 39684; and

(C) such other terms, conditions, reservations, and exceptions as may be agreed upon by the Secretary and the company.

(2) On termination or relinquishment of the leases referred to in paragraph (1), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary shall give notice of that event by a document suitable for recording in the county wherein the leased lands are situated.

(c) EASEMENTS.—Reciprocal easements shall be exchanged at closing on the conveyances authorized by this section—

(1) in consideration of the easements conveyed by the company as provided in paragraph (2) of this subsection, the Secretary shall, under authority of the Act of October 13, 1964 (16 U.S.C. 532 et seq., commonly referred to as the "National Forest Roads and Trails Act"), or the Federal Land Policy and Management Act of 1976, execute and deliver to the company such easements or other rights-of-way authorizations over federally owned lands included in this exchange as may be agreed to by the Secretary and the company in an exchange agreement; and

(2) in consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall execute and deliver to the United States such easements or other rights-of-way authorizations across company-owned lands included in this exchange as may be agreed to by the Secretary and the company in an exchange agreement.

(d) TIMING OF TRANSACTION.—Subject to the provisions of sections 4(a) and 5(a) of this Act, it is the intent of Congress that the conveyances authorized by this section be completed within 90 days after the date of enactment of an Act making the appropriation authorized by subsection (e).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section the sum of \$3,400,000, which amount the Secretary shall, when appropriated, pay to the company to equalize the value of the exchange of land authorized by this section.

(f) QUALITY OF TITLE.—Title to the properties referenced in this section to be offered to the United States by Big Sky Lumber Company, its assignees or successors in interest, shall include both the entire surface and subsurface estates without reservation or exception. The owner shall be required to acquire any outstanding interest in mineral or mineral rights, timber or timber rights, water or water rights, or any other outstanding interest in the property, except reservations by the United States or the State of Montana by patent, in order to assure that title to the property is transferred as described in this section and sections 4, 5, and 6. Title to land to be conveyed to the United States shall be acceptable to the Secretary and shall otherwise be in conformity with title standards for Federal land acquisitions.

(g) REFERENCES.—The reference and authorities of this section referring to Plum Creek Tim-