

1 ALDERSON COURT REPORTING

2 CHRISTINE ALLEN

3 HJU121000

4 MARKUP OF MOTION PURSUANT TO HOUSE RULE XI, CLAUSE 2 (J) (2) (B)
5 TO PERMIT AN ADDITIONAL HOUR OF QUESTIONING, EQUALLY DIVIDED
6 BETWEEN THE MAJORITY AND MINORITY, FOR ANY FULL COMMITTEE
7 HEARING ENTITLED "OVERSIGHT OF THE U.S. DEPARTMENT OF
8 JUSTICE: REPORT BY SPECIAL COUNSEL ROBERT S. MUELLER, III ON
9 THE INVESTIGATION INTO RUSSIAN INTERFERENCE IN THE 2016
10 PRESIDENTIAL ELECTION; AND RELATED MATTERS;"
11 MOTION PURSUANT TO HOUSE RULE XI, CLAUSE 2 (J) (2) (C) TO PERMIT
12 COMMITTEE STAFF, AS DESIGNATED BY THE CHAIR AND RANKING
13 MEMBER, TO QUESTION THE WITNESS FOR AN ADDITIONAL HOUR,
14 EQUALLY DIVIDED BETWEEN THE MAJORITY AND MINORITY, AT ANY
15 FULL COMMITTEE HEARING ENTITLED "OVERSIGHT OF THE U.S.
16 DEPARTMENT OF JUSTICE: REPORT BY SPECIAL COUNSEL ROBERT S.
17 MUELLER, III ON THE INVESTIGATION INTO RUSSIAN INTERFERENCE
18 IN THE 2016 PRESIDENTIAL ELECTION; AND RELATED MATTERS;" AND
19 H.R. 5, THE "EQUALITY ACT."

20 Wednesday, May 1, 2019
21 House of Representatives
22 Committee on the Judiciary
23 Washington, D.C.

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

27 Present: Representatives Nadler, Lofgren, Jackson Lee,
28 Cohen, Johnson of Georgia, Deutch, Bass, Jeffries, Cicilline,
29 Swalwell, Lieu, Raskin, Jayapal, Demings, Correa, Scanlon,
30 Garcia, Neguse, McBath, Stanton, Dean, Murcarsel-Powell,
31 Escobar, Collins, Sensenbrenner, Chabot, Gohmert, Jordan,
32 Buck, Roby, Gaetz, Johnson of Louisiana, Biggs, McClintock,
33 Lesko, Reschenthaler, Cline, Armstrong, and Steube.

34 Staff present: Aaron Hiller, Deputy Chief Counsel;
35 David Greengrass, Senior Counsel; John Doty, Senior Advisor;
36 Lisette Morton, Director of Policy, Planning, and Member
37 Services; Madeline Strasser, Chief Clerk; Moh Sharma, Member
38 Services and Outreach Advisor; Susan Jensen,
39 Parliamentarian/Senior Counsel; James Park, Chief Counsel,
40 Constitution Subcommittee; Will Emmons, Professional Staff
41 Member, Constitution Subcommittee; Brendan Belair, Minority
42 Chief of Staff; Robert Parmiter, Minority Deputy Chief of
43 Staff; Jon Ferro, Minority Parliamentarian; Paul Taylor,
44 Minority Chief Counsel, Constitution Subcommittee; Carlton
45 Davis, Minority Chief Oversight Counsel; Jake Greenberg,
46 Minority Oversight Counsel; Ryan Breitenbach, Minority Chief
47 Counsel, National Security; Erica Barker, Minority Chief
48 Legislative Clerk; and Andrea Woodward, Minority Professional

49 Staff Member.

50

51 Chairman Nadler. The Judiciary Committee will please
52 come to order, a quorum being present. Without objection,
53 the chair is authorized to declare a recess at any time.

54 Pursuant to Committee Rule II and House Rule XI, Clause
55 2, the chair may postpone further proceedings today on the
56 question of approving any measure or matter or adopting an
57 amendment for which a recorded vote for the yeas and nays are
58 ordered.

59 Pursuant to notice and House Rule 11, Clause 2(j)(2)(B),
60 I move that the committee adopt the motion permitting an
61 additional hour of questioning, equally divided between the
62 majority and minority, for any full committee hearing
63 entitled "Oversight of the U.S. Department of Justice:
64 Report by Special Counsel Robert Mueller, III, on the
65 Investigation Into Russian Interference in the 2016
66 Presidential Election, and Related Matters."

67 The clerk will report the motion.

68 Ms. Strasser. Motion offered by Chairman Jerrold
69 Nadler, motion pursuant to House Rule 11, Clause 2(j)(2)(B)
70 to permit an additional hour of questioning, equally divided
71 between the majority and minority, for any full committee
72 hearing entitled "Oversight" --

73 Chairman Nadler. Without objection, the motion is
74 considered as read and open for any amendment at any point.

75 [The motion follows:]

76

77 Chairman Nadler. I will begin by recognizing myself for
78 an opening statement.

79 My motion is simple and straightforward. It would
80 permit an additional hour of questioning, equally divided
81 between the majority and minority members, at the end of the
82 regular round of questioning at tomorrow's oversight hearing
83 with Attorney General Barr, where we will discuss Special
84 Counsel Mueller's report on Russian interference in the 2016
85 presidential election.

86 In 2016, our democracy was attacked by a Russian
87 government intent on undermining the integrity of our
88 electoral process in favor of then candidate, Donald Trump.
89 The Mueller report is a detailed 440-plus document
90 encompassing the special counsel's 2-year investigation into
91 that attack and subsequent efforts by President Trump to
92 obstruct that investigation.

93 It is imperative, given the importance of the hearing's
94 subject matter, that the committee not limit itself to the 5-
95 minute rule. Granting both the majority and minority 30
96 minutes of additional time will allow the committee to engage
97 Attorney General Barr in an in-depth discussion regarding the
98 results of the special counsel's crucial investigation. It
99 will permit this committee to examine the facts thoroughly,
100 to ask detailed follow-up questions, and to ensure the
101 maximum amount of public transparency regarding the report's

102 findings.

103 Clearly this motion is consistent with prior precedent
104 in this committee under both Democratic and Republican
105 leadership when conducting oversight hearings. For example,
106 at a 2007 hearing related to the investigation into the
107 politically-motivated firings of several U.S. attorneys, then
108 chairman John Conyers and Ranking Member Lamar Smith agreed
109 to additional time for extended questioning of Department of
110 Justice official, Monica Goodling. And just this last
111 Congress under a Republican majority, our committee and the
112 Oversight and Government Reform Committee agreed to permit
113 extended time to question former FBI agent, Peter Strzok, as
114 part of the joint oversight hearing on the FBI and the DOJ
115 regarding the 2016 presidential election. And these are just
116 examples. There are other examples.

117 Lastly, I want to be clear that this motion, in
118 conjunction with the motion I intend to make after this one,
119 will give the minority flexibility to decide how to use their
120 portion of the additional time my motion would authorize. In
121 other words, the minority will have the option to designate
122 members of staff to conduct the extended questioning.

123 In closing, providing additional time to question the
124 witness, even if that witness is the Attorney General, is
125 consistent with both House rules, prior House precedent, and
126 this committee's past practice. It is my hope that we can at

127 least agree that, given the seriousness of the subject matter
128 to the Nation, this committee should not hamstring its
129 ability to question the Attorney General in the most thorough
130 manner available to it.

131 I now recognize the ranking member of the Judiciary
132 Committee, the gentleman from Georgia, Mr. Collins, for his
133 opening statement.

134 Mr. Collins. Thank you, Mr. Chairman. This first
135 amendment is something that, frankly, you and I discussed on
136 the phone on Monday and I had no problem with, and could have
137 been handled with a UC request that we could have worked out
138 beforehand. This is not the issue and never has been the
139 issue as far as having special time. As you and I both
140 agree, and we have sat through many hearings, the 5-minute
141 rule, especially in oversight, can be problematic to both
142 sides, both the majority and the minority.

143 This part of the motion is not, you know, anything that
144 we have objected to. In fact, like I said, there is really
145 not even a need to have this motion. You and I could have
146 sat down, and we could have agreed on this and UC'd this the
147 day of. The concern will come in just a few moments, and
148 that is when we try to make this into something this is not,
149 and I think this is, you know, something we can move forward
150 on. Let's just get to the real problematic issues as we go
151 forward, but with this one, you and I could have handled this

152 one before this motion was ever given. I yield back.

153 Chairman Nadler. Thank you. Then I hope we will handle
154 this one at least expeditiously. Are there any amendments to
155 the motion permitting an additional hour of questioning,
156 equally divided between the majority and minority, for the
157 full committee hearing, which I won't bother reading the
158 title of, tomorrow? Are there any amendments?

159 Mr. Gaetz. Move to strike the last word.

160 Chairman Nadler. The gentleman from Florida, Mr. Gaetz.

161 Mr. Gaetz. Move to strike the last word.

162 Chairman Nadler. The gentleman is recognized.

163 Mr. Gaetz. Thank you, Mr. Chairman, and I would say
164 that I appreciate the chairman's recognition of the
165 limitations of the 5-minute rule, and I intend to support the
166 chairman's motion because the 5-minute rule sucks. We are
167 never able to get deeply into a lot of the issues that come
168 before us, and I am in violent agreement with the chairman on
169 the subject. And I yield back.

170 Chairman Nadler. Well, I appreciate the agreement by
171 the gentleman and his use of colloquial phraseology --

172 [Laughter.]

173 Chairman Nadler. -- which seems to be appropriate. Is
174 there any other discussion?

175 [No response.]

176 Chairman Nadler. Okay. Then a reporting quorum being

177 present, the question is on the adoption of the motion
178 pursuant to House Rule 11, Clause 2(j)(2)(B).

179 Those in favor, say aye?

180 Opposed, no?

181 The ayes have it, and the motion is agreed to.

182 Pursuant to notice and House Rule 11, Clause 2(j)(2)(C),
183 I move that the committee adopt the motion to permit
184 committee staff, as designated by the chair and ranking
185 member, to question the witness for an additional hour,
186 equally divided between the majority and minority, at any
187 full committee hearing entitled, "Oversight of the U.S.
188 Department of Justice: Report by Special Counsel Robert
189 Mueller, III, on the Investigation Into Russian Interference
190 in the 2016 Presidential Election, and Related Matters."

191 The clerk will report the motion.

192 Ms. Strasser. Motion offered by Chairman Jerrold
193 Nadler, motion pursuant to House Rule 11, Clause 2(j)(2)(C),
194 to permit committee staff, as designated by the chair and
195 ranking member, to question the witness for an additional
196 hour, equally divided by the majority and minority" --

197 Chairman Nadler. Without objection, the motion is
198 considered as read and open for amendment at any point.

199 [The motion follows:]

200

201 Mr. Sensenbrenner. Mr. Chairman, I object, and I object
202 to consideration of the motion.

203 Chairman Nadler. Well, you can object to waiving the
204 reading of the motion. You can't object to consideration.
205 The clerk will continue reading --

206 Mr. Sensenbrenner. Point of order.

207 Chairman Nadler. The clerk will continue reading in
208 accordance with the gentleman's objection.

209 Ms. Strasser. -- at any full committee hearing entitled
210 "Oversight of the U.S. Department of Justice: Report by
211 Special Counsel Robert S. Mueller, III, on the Investigation
212 Into Russian Interference in the 2016 Presidential Election,
213 and Related Matters."

214 Mr. Sensenbrenner. Mr. Chairman, I object to
215 consideration of the motion now.

216 Chairman Nadler. The gentleman will state the grounds
217 for his objection.

218 Mr. Sensenbrenner. Mr. Chairman, I don't believe it is
219 proper that this committee should even talk about doing
220 something so unprecedented.

221 Chairman Nadler. That is not a proper objection. It is
222 simply saying that you don't like it. You are entitled not
223 to like it --

224 Mr. Sensenbrenner. Mr. Chairman, I appeal the decision
225 of the chair.

226 Chairman Nadler. It is not a parliamentary inquiry.

227 There is nothing to appeal.

228 Mr. Sensenbrenner. I appeal the decision of the chair
229 ruling the question of consideration out of order.

230 Chairman Nadler. What consideration did I just rule out
231 of order?

232 Mr. Sensenbrenner. Considering the motion that was just
233 read by the clerk.

234 Chairman Nadler. Okay. Okay. The gentleman raises a
235 question of consideration, which is not debatable. The
236 question is does the committee wish to consider the motion.

237 All those in favor, say aye?

238 All those opposed, no?

239 In the opinion of the chair, the ayes have it --

240 Mr. Sensenbrenner. Roll call.

241 Chairman Nadler. -- the question of a consideration is
242 agreed to. A roll call is requested. The clerk will call
243 the roll.

244 Ms. Strasser. Mr. Nadler?

245 Chairman Nadler. Aye.

246 Ms. Strasser. Mr. Nadler votes aye.

247 Ms. Lofgren?

248 Ms. Jackson Lee?

249 Mr. Cohen?

250 Mr. Johnson of Georgia?

251 Mr. Johnson of Georgia. Aye.

252 Ms. Strasser. Mr. Johnson of Georgia votes aye.

253 Mr. Deutch?

254 Ms. Bass?

255 Ms. Bass. Aye.

256 Ms. Strasser. Ms. Bass votes aye.

257 Mr. Richmond?

258 Mr. Jeffries?

259 Mr. Jeffries. Aye.

260 Ms. Strasser. Mr. Jeffries votes aye.

261 Mr. Cicilline?

262 Mr. Cicilline. Aye.

263 Ms. Strasser. Mr. Cicilline votes aye.

264 Mr. Swalwell?

265 Mr. Lieu?

266 Mr. Raskin?

267 Mr. Raskin. Yes.

268 Ms. Strasser. Mr. Raskin votes aye.

269 Ms. Jayapal?

270 Mrs. Demings?

271 Mrs. Demings. Aye.

272 Ms. Strasser. Mrs. Demings votes aye.

273 Mr. Correa?

274 Mr. Correa. Aye.

275 Ms. Strasser. Mr. Correa votes aye.

276 Ms. Scanlon?

277 Ms. Scanlon. Aye.

278 Ms. Strasser. Ms. Scanlon votes aye.

279 Ms. Garcia?

280 Mr. Neguse?

281 Mr. Neguse. Aye.

282 Ms. Strasser. Mr. Neguse votes aye.

283 Mrs. McBath?

284 Mrs. McBath. Aye.

285 Ms. Strasser. Mrs. McBath votes aye.

286 Mr. Stanton?

287 Mr. Stanton. Aye.

288 Ms. Strasser. Mr. Stanton votes aye.

289 Ms. Dean?

290 Ms. Dean. Aye.

291 Ms. Strasser. Ms. Dean votes aye.

292 Ms. Mucarsel-Powell?

293 Ms. Mucarsel-Powell. Aye.

294 Ms. Strasser. Ms. Mucarsel-Powell votes aye.

295 Ms. Escobar?

296 Mr. Collins?

297 Mr. Collins. No.

298 Ms. Strasser. Mr. Collins votes no.

299 Mr. Sensenbrenner?

300 Mr. Sensenbrenner. No.

301 Ms. Strasser. Mr. Sensenbrenner votes no.
302 Mr. Chabot?
303 Mr. Chabot. No.
304 Ms. Strasser. Mr. Chabot votes no.
305 Mr. Gohmert?
306 Mr. Gohmert. No.
307 Ms. Strasser. Is this tabling or appealing the ruling
308 of the chair?
309 Chairman Nadler. Neither.
310 Mr. Gohmert. Oh, okay. Nope.
311 Ms. Strasser. Mr. Gohmert votes no.
312 Mr. Jordan?
313 Mr. Buck?
314 Mr. Buck. No.
315 Ms. Strasser. Mr. Buck votes no.
316 Mr. Ratcliffe?
317 Mrs. Roby?
318 Mrs. Roby. No.
319 Ms. Strasser. Mrs. Roby votes no.
320 Mr. Gaetz?
321 Mr. Gaetz. No.
322 Ms. Strasser. Mr. Gaetz votes no.
323 Mr. Johnson of Louisiana?
324 Mr. Johnson of Louisiana. No.
325 Ms. Strasser. Mr. Johnson of Louisiana votes no.

326 Mr. Biggs?

327 Mr. Biggs. No.

328 Ms. Strasser. Mr. Biggs votes no.

329 Mr. McClintock?

330 Mr. McClintock votes -- sorry.

331 Mrs. Lesko?

332 Mrs. Lesko. No.

333 Ms. Strasser. Mrs. Lesko votes no.

334 Mr. Reschenthaler?

335 Mr. Cline?

336 Mr. Cline. No.

337 Ms. Strasser. Mr. Cline votes no.

338 Mr. Armstrong?

339 Mr. Armstrong. No.

340 Ms. Strasser. Mr. Armstrong votes no.

341 Mr. Steube?

342 Mr. Steube. No.

343 Ms. Strasser. Mr. Steube votes no.

344 Chairman Nadler. Are there other members who wish to

345 vote who haven't voted yet?

346 The gentleman from Tennessee?

347 Mr. Cohen. Aye.

348 Ms. Strasser. Mr. Cohen votes aye.

349 Chairman Nadler. The gentlelady from California?

350 Ms. Lofgren. Aye.

351 Ms. Strasser. Ms. Lofgren votes aye.

352 Chairman Nadler. The gentlelady from Texas?

353 Ms. Garcia. Aye.

354 Ms. Strasser. Ms. Garcia votes aye.

355 Chairman Nadler. The gentlelady from Washington?

356 Ms. Jayapal. Aye.

357 Ms. Strasser. Ms. Jayapal votes aye.

358 Chairman Nadler. The gentlelady from Texas?

359 Ms. Escobar. Aye.

360 Ms. Strasser. Ms. Escobar votes aye.

361 Chairman Nadler. The gentleman from California?

362 Mr. Lieu. Aye.

363 Ms. Strasser. Mr. Lieu votes aye.

364 Chairman Nadler. Anyone else wish to vote? I know we

365 are waiting for somebody.

366 The gentleman from Florida?

367 Mr. Deutch. Aye.

368 Ms. Strasser. Mr. Deutch votes aye.

369 Chairman Nadler. The clerk will report the result. The

370 clerk will suspend.

371 The gentlelady from Texas?

372 Ms. Jackson Lee. Yes.

373 Ms. Strasser. Ms. Jackson Lee votes aye.

374 Chairman Nadler. Now the clerk will resume

375 consideration of the result.

376 Ms. Strasser. Mr. Chairman, there are 22 ayes and 13
377 noes.

378 Chairman Nadler. The question of consideration is
379 adopted.

380 Okay. I will begin by recognizing myself for an opening
381 statement.

382 This motion is similar to my previous motion, differing
383 only in that it would permit committee staff, as designated
384 by the chair and ranking member, to question Attorney General
385 Barr for the additional hour, equally divided between the
386 majority and minority following the end of member questioning
387 at tomorrow's hearing. To be clear, this motion is intended
388 to be concurrent with the additional hour of questioning
389 provided for under the previously-adopted motion. It is an
390 extra hour only for committee staff.

391 At his April 18th press conference, Attorney General
392 Barr publicly committed to providing the greatest degree
393 possible of transparency concerning the special counsel's
394 investigation consistent with the law. Permitting committee
395 staff to question the Attorney General for an extended period
396 of time after members have had the opportunity to question
397 him is an important means by which this committee can hold
398 the Attorney General to that pledge and can get more
399 information.

400 Last night, we learned that Special Counsel Mueller

401 wrote a letter objecting to Attorney General Barr's March
402 24th characterization of the report because "it did not fully
403 capture the context, nature, and substance of the
404 investigation," and requested the Attorney General to release
405 the introductions and summaries prepared by the special
406 counsel's team. This morning, we received a copy of that
407 letter, and I ask unanimous consent to enter it into the
408 record.

409 [The information follows:]

410

411 Chairman Nadler. I would point out that essentially the
412 letter says that the Attorney General misled the public as to
413 the contents of the report.

414 According to the special counsel's letter, the Attorney
415 General's mischaracterization of the report before releasing
416 it to the public created "public confusion about critical
417 aspects of the results of our investigation." The special
418 counsel went on to write that, "This threatens to undermine
419 the essential purpose for which the Department appointed the
420 special counsel, to assure public confidence in the outcome
421 of the investigations." In light of this news, it is
422 particularly critical that we question the Attorney General
423 on the committee's terms.

424 Committee staff questioning has long been an important,
425 if underutilized, aspect of congressional oversight that is
426 in complete accord with House rules and past precedent.
427 The House Judiciary Committee has permitted committee staff
428 to question witnesses in the past under both Democratic and
429 Republican majorities during both public hearings and private
430 transcribed interviews. For example, committee staff
431 participated in questioning witnesses during impeachment
432 inquiries into President Nixon, President Clinton, and Judge
433 Thomas Porteous. In the last Congress, during the
434 Republican-led investigation into the FBI's handling of the
435 Hillary Clinton email investigation, committee staff

436 questioned several FBI and DOJ officials, including then
437 Deputy FBI Director Andrew McCabe, former FBI Director James
438 Comey, and former Attorney General Loretta Lynch.

439 Some have expressed the concern that it is somehow
440 inappropriate for committee staff to question a sitting
441 Attorney General. There is ample House precedent, however,
442 for committee staff to question sitting and Cabinet-level and
443 Senate-confirmed officials during a hearing. The most
444 salient precedent for this occurred in 1987 during the House
445 and Senate hearings on the Iran-Contra scandal when committee
446 staff questioned then sitting Attorney General Ed Meese.
447 Committee staff also questioned Secretary of Defense Caspar
448 Weinberger and Secretary of State George Schultz.

449 I would also note that in 1997 under a Republican
450 majority at a hearing held before the House Oversight
451 Committee with Attorney General Janet Reno and FBI Director
452 Louis Freeh, that committee agreed to proceed under the rules
453 to permit "the chairman and ranking member to allocate time
454 to committee counsel as they deem appropriate for extended
455 questioning."

456 On a final note, there are reports that the Attorney
457 General may refuse to appear tomorrow if this committee
458 proceeds with staff questioning. In spite of all the
459 precedent I have cited, I would note that Congress does not
460 have to justify to the Attorney General, to the Department of

461 Justice, or to any other part of the executive branch the
462 manner in which it chooses to conduct its own proceedings.
463 Any attempt by the executive to dictate this is an
464 obstruction of Congress, and no witness can simply dictate to
465 this committee the manner in which he or she is questioned
466 when it is fully in accordance with House rules.

467 Attorney General Barr publicly committed to being
468 transparent regarding the special counsel's investigation.
469 He should welcome the opportunity to speak candid, and I
470 should add, he publicly committed to coming to the hearing.
471 He should welcome the opportunity to speak candidly and at
472 length before the House Judiciary Committee and the American
473 people. I don't know what he is afraid of from questioning
474 by staff counsel.

475 I now recognize the ranking member of the Judiciary
476 Committee, the gentleman from Georgia, Mr. Collins, for his
477 opening statement.

478 Mr. Collins. Thank you, Mr. Chairman. Before I begin
479 my opening statement, I have to make a clarification because
480 it has been pointed out and it violates the Rules of the
481 House. These are not concurrent motions. They cannot be
482 concurrent. They cannot run together. According to the
483 Rules of the House, they cannot run concurrent. And it is
484 not in the motion, but I am just making the statement based
485 on your opening statement that these cannot run concurrent,

486 and that has been discussed this week in depth.

487 Chairman Nadler. -- special counsel's letter.

488 [The information follows:]

489

490 Mr. Collins. And so I want to make it very clear to the
491 committee that these cannot run concurrent. These are two
492 separate hours that we are discussing. They are not
493 concurrent. They are not concurrent. So just as an
494 awareness here, this is 2 more hours we are adding on to this
495 committee. And like I said, for the first hour, we had no
496 problem. I mean, members can do that, and that is where we
497 are at. But I want to point out it is not part of the
498 motion, and it is not concurrent as we go forward.

499 So with that, last week while we were off, I had to do
500 my annual training, part of my annual training in the Air
501 Force. And so I was sitting and I looked ahead at my
502 schedule. I got back into my room that night, and I looked
503 ahead, and I said, this is going to be a good week in
504 Judiciary Committee. We are going to have markups. We are
505 going to do what we are supposed to be doing. And if you
506 were here yesterday, we had a markup and it actually went
507 very well. We actually did stuff that helped the American
508 people. That was a good thing, and it was a great day.

509 Even today, even in a bill which I disagree with, but
510 that is part of Congress, that is part of the debate, and it
511 is part of the negotiation, is there is a bill we are going
512 to mark up, eventually I am assuming we will mark up, that
513 will go to the floor. That is a good thing. That is what
514 this committee is supposed to do. And on Thursday, we were

515 finally going to get, tomorrow we were going to get to talk
516 to the Attorney General and ask questions, and even to the
517 point of making sure that both sides had, you know, as much
518 as we could get and do whatever we needed to do.

519 And then over the weekend, it was discussed and leaked
520 to the press that we are deciding now we are going to add in
521 something that is not precedented. It is not precedented,
522 not because Doug Collins says so or any Republican says so.
523 It is unprecedented based on fact check of CNN. It has not
524 been a precedent for this committee to use staff in a full
525 hearing in this Judiciary Committee. And, in fact,
526 everything that was just laid out by the chairman just a few
527 moments ago, he listed two incidents of impeachment. He
528 listed the impeachment of a select committee, which is
529 different rules. He listed also Dan Burton in the House
530 Oversight Committee, which, again, is not the Judiciary
531 Committee. He did list some events that took place in
532 transcripts that were not public testimony.

533 Now, my problem here is this. Bill Barr so far, and we
534 can have disagreements. You can disagree with him. You can
535 do whatever. But it is amazing up until a few weeks ago he
536 was a good man. Up until a few weeks ago, people thought he
537 was a good attorney. Up until a few weeks ago, Bob Mueller
538 was a top-notch investigator until the report came out, and
539 it didn't say what you wanted it to say. And at this point

540 in time, now he is a so-called Attorney General. I mean, it
541 is amazing to me the words that have been said at this point.

542 But there are two reasons for this motion. There are
543 two reasons, and really one I am going to focus on, and that
544 is that the chairman has decided, along with the majority,
545 that they want to appear as if they are doing impeachment.
546 They want to have an impeachment-like inquiry because the
547 precedent for staff questioning is impeachment. But the
548 problem is they can't bring themselves to bring impeachment.
549 They can't bring themselves to take one of the resolutions
550 that has already been addressed on the Democratic side, to
551 bring it to this committee and open impeachment. If that is
552 what they want to do, open it up. We then go to the separate
553 battles and we begin this process.

554 But instead we want the appearance of impeachment to
555 supply our base, to talk to others, to impugn the integrity,
556 to do whatever so that we can smear the President ahead of
557 the 2020 election. There is no precedent here that we are
558 looking at that can say this. We just simply want to do it.

559 But there is another area that really bothers me here
560 because I have had the privilege of sitting on this committee
561 for 6 years. I have watched on the other side some very good
562 members ask questions. Steve Cohen from Tennessee, I have
563 watched him blister witnesses. Mr. Raskin from Maryland, I
564 have watched and shuddered that I wouldn't want to be on the

565 other side of that questioning. Mr. Cicilline, Mr. Jeffries.
566 I mean, I have been impressed with our new members who have
567 been on this committee. You can do this. Why would you want
568 to say something that a staff member can do it better than
569 you can? If a staff member wants to ask questions, run for
570 Congress. Put your money down, take a chance, and run for
571 Congress.

572 I was told earlier this week that we are doing staff
573 questioning because it streamlines questioning and saves
574 time. Ah, wrong. It adds another hour. It can't streamline
575 questioning because it is at the end. Really let's be honest
576 with lawyers in the room. What we are doing is we are trying
577 to put a staff member at the end to try and catch the
578 Attorney General in saying something that he can then be
579 asked about later. This is all this is.

580 So as we go forward here, I believe Bill Barr has done
581 exactly what he said he was going to do. He said he would
582 release the report. He said these were the findings of the
583 report. Even the letter the chairman mentioned today said
584 they were concerned about context. Nowhere in there does it
585 say Mueller disagreed with the findings. That is not true.
586 To say that they disagreed with the findings, they didn't
587 disagree with the findings. He was wanting to get the report
588 out as soon as possible.

589 What we have here is simply another opportunity to

590 sidetrack and to have a serial sideshow of stepping on our
591 own. This may be the Whitaker model. Maybe this is what we
592 are dealing with. We are going to do the motion this
593 morning, and then we are going to hope and hope and hope that
594 Bill Barr tonight will say, no, I don't want to come, and
595 then we will offer that we won't have the staff, and we will
596 offer him. Maybe he will come tomorrow. Maybe that is the
597 model that we are looking at here.

598 But at the end of the day, this is not the way this
599 committee should operate. This is something we were looking
600 forward to, that all of us should be able to. Every member
601 here who ran for office, whether you agree with the President
602 or like the President, it didn't matter. This was our chance
603 to talk about the Mueller report that all of us have talked
604 about for 2 years instead of putting poison pills in here to
605 say now we are going to have a sideshow. Now we will have
606 something.

607 Right now, folks, Bill Barr is testifying before the
608 Senate Judiciary Committee. No theatrics except questions
609 about the report. Why is that so hard for us? Number one,
610 we want it to look impeachment because we are in the
611 majority. Democrats are in this side of the building. We
612 want it to look like impeachment because we don't like the
613 results. There is no precedent that actually applies here.
614 As I have told the chairman before, if we are going down this

615 road, then this will slow down a lot of stuff, and the good
616 things that we can do in this committee -- crisis on our
617 border, intellectual property issues -- everything else that
618 we could do is going to fall victim to a stunt. It is going
619 to fall victim to a play.

620 If I was a part of the majority at this point in time, I
621 would have thought my staff could help me ask good questions.
622 Undoubtedly, that is not what it is. They want to throw
623 something up to make it look like an impeachment hearing when
624 it is not because they don't have the ability, or want to, to
625 put an impeachment inquiry out there.

626 Where I am from, if you take something simple and mess
627 it up, you are either intentional or you are just not sure
628 what you are doing. At this point, we had the chance to have
629 the Attorney General here tomorrow and do away with this and
630 get on to a markup of a real bill. Instead we are going to
631 spend a while talking about a theatric stunt. But just in
632 case, we do have our popcorn machine now, because as I said a
633 few months ago, this has become nothing but theater. And
634 with that, I yield back.

635 Chairman Nadler. Are there any amendments to the motion
636 to permit committee staff, as designated by the chair and
637 ranking member, to question the witness for an additional
638 hour, equally divided between the majority and minority in
639 any full committee hearing entitled, "Oversight of the U.S.

640 Department of Justice: Report by Special Counsel Robert
641 Mueller, III, on the Investigation into Russian Interference
642 in the 2016 Presidential Election, and Related Matters?"

643 Mr. Sensenbrenner. Mr. Chairman?

644 Chairman Nadler. The gentlelady from Texas. For what
645 purpose does the gentlelady seek recognition?

646 Ms. Jackson Lee. To strike the last word.

647 Chairman Nadler. The gentlelady is recognized.

648 Ms. Jackson Lee. Mr. Chairman, we have served on this
649 committee with a number of our members for a very long time,
650 and I would venture to say that we are colleagues and even
651 friends on a number of issues that we have worked on. And I
652 would say that to the ranking member that we have had an
653 opportunity to work extensively together on past legislation.

654 I would also correct the record to indicate that every
655 single member on this committee has been profound in their
656 questioning, and they have articulated pointed and direct
657 questioning to witnesses that have been representative of the
658 history of the Judiciary Committee that I have served on. I
659 am proud of them, and I respect their intellect and their
660 ability. This motion has nothing to do with members asking
661 questions because as you read the motion, to my good friend,
662 it is that every member will ask a question, and then counsel
663 will so ask.

664 Democrats have no fear of the word "impeachment," and

665 this is not an impeachment-like proceeding. But it is clear
666 that our friends on the other side would relish an immediate
667 jump to a process of which we are smarter than that, because
668 what we are doing is investigating for the truth and
669 investigating to edify the American people. If you want to
670 know, the chairman, and I don't pretend to speak for him in
671 the entirety. But I would offer to say that this letter
672 dated March 27th that came from Mueller is the very
673 foundation upon which we need to proceed in the way that we
674 are proceeding.

675 His last sentence indicated, or in the body of it says,
676 "Accordingly, the enclosed documents are in a form that can
677 be released to the public consistent with legal requirements
678 and Department policies." Letter dated March 27th. I think
679 today happens to be in the month of May, and we are now on
680 May 1st. "I am requesting that you provide these materials
681 to Congress and authorize their public release at this time.
682 The summary letter the Department sent to Congress -- this is
683 Mr. Mueller speaking -- "and released to the public late in
684 the afternoon of March 24th did not fully capture the
685 context, nature, and substance of this office's work and
686 conclusions. We communicated that concern to the Department
687 on the morning of March 25th. There is now public confusion
688 about the critical aspects of the results of our
689 investigation." The letter so continues: "This threatens to

690 undermine a central purpose for which the Department
691 appointed the special counsel." And he goes on to say
692 release it, release it.

693 So I think the format that has been established is one
694 geared directly to securing the truth. It is supported by
695 previous sessions when lawyers or staff have been able to ask
696 questions. In fact, I have been in classified, closed-door
697 proceedings when our staff has asked questions along with the
698 staff of the Oversight. Let us not pretend that this is
699 something that has just dropped from a foreign sky. And the
700 narrative that has been created by the Administration begs
701 the question of adding the additional inquiry by staff, which
702 is now being allowed for the minority.

703 And then to answer the question for someone who has had
704 the privilege of serving on this committee for a while, and
705 some members can join me in their thoughts, and note that if
706 a document had come out like Volume I and Volume II under the
707 previous Administration, impeachment would have started
708 before the documents even came to the DOJ. I am not fooled
709 by this. But Democrats in their essence of justice and
710 equity are simply seeking to say to the American people there
711 is no fear here, but there is a respect and dignity to the
712 process in which we have to engage.

713 So I would rise to support the underlying motion, and I
714 would say to my good friends, including the ranking member,

715 as he well knows, we have passed legislation together. We
716 have traveled to different cities in the Police Working Group
717 in a bipartisan manner. There is no hesitancy to be
718 bipartisan on this committee and none by Democrats. We ask
719 you to join us in voting on this motion that does nothing but
720 give you extra time and the ability for your lawyers to ask
721 questions. But we will not be fooled into moving on any
722 process other than the ones that we feel are guided by
723 thought, our deliberation, and the quest -- the undying quest
724 -- for truth for this. With that, I yield back.

725 Chairman Nadler. Thank you. The gentleman from Florida
726 is recognized for the purpose of offering an amendment, and
727 let me just say this. There is one amendment at the desk.
728 We have an important bill to consider. We are not going to
729 spend a lot of time on this motion. And after this
730 amendment, we will go to a vote on the motion. The
731 gentleman --

732 Mr. Sensenbrenner. Mr. Chairman, I --

733 Chairman Nadler. The gentleman from Florida is
734 recognized.

735 Mr. Sensenbrenner. Mr. Chairman, I move to table the
736 motion.

737 Chairman Nadler. The gentleman is not recognized. The
738 gentleman from Florida is recognized for offering his
739 amendment.

740 Mr. Sensenbrenner. It is a privileged motion.

741 Voices. It is a privileged motion.

742 Chairman Nadler. A privileged motion once made after
743 being recognized. The gentleman from Florida will offer his
744 amendment.

745 Mr. Sensenbrenner. That is not true.

746 Mr. Collins. That takes precedent. No, Mr. Chairman,
747 we are not going to down this line. We will go to your PQ
748 quick enough, but we are not going to down that line.

749 Mr. Sensenbrenner. Mr. Chairman, I move to table the
750 resolution or the motion.

751 Chairman Nadler. The motion to table is undebatable.

752 All in favor, say aye?

753 Opposed, no?

754 The noes have it. The gentleman from Florida is
755 recognized for the purposes of --

756 Mr. Sensenbrenner. Roll call.

757 Chairman Nadler. A roll call. The clerk will call the
758 roll on the dilatory motion to table.

759 Ms. Strasser. Mr. Nadler?

760 Chairman Nadler. No.

761 Ms. Strasser. Mr. Nadler votes no.

762 Ms. Lofgren?

763 Ms. Lofgren. No.

764 Ms. Strasser. Ms. Lofgren votes no.

765 Ms. Jackson Lee?
766 Ms. Jackson Lee. No.
767 Ms. Strasser. Ms. Jackson Lee votes no.
768 Mr. Cohen?
769 Mr. Cohen. No.
770 Ms. Strasser. Mr. Cohen votes no.
771 Mr. Johnson of Georgia?
772 Mr. Deutch?
773 Ms. Bass?
774 Mr. Richmond?
775 Mr. Jeffries?
776 Mr. Jeffries. No.
777 Ms. Strasser. Mr. Jeffries votes no.
778 Mr. Cicilline?
779 Mr. Cicilline. No.
780 Ms. Strasser. Mr. Cicilline votes no.
781 Mr. Swalwell?
782 Mr. Lieu?
783 Mr. Lieu. No.
784 Ms. Strasser. Mr. Lieu votes no.
785 Mr. Raskin?
786 Mr. Raskin. No.
787 Ms. Strasser. Mr. Raskin votes no.
788 Ms. Jayapal?
789 Ms. Jayapal. No.

790 Ms. Strasser. Ms. Jayapal votes no.
791 Mrs. Demings?
792 Mrs. Demings. No.
793 Ms. Strasser. Mrs. Demings votes no.
794 Mr. Correa?
795 Mr. Correa. No.
796 Ms. Strasser. Mr. Correa votes no.
797 Ms. Scanlon?
798 Ms. Scanlon. No.
799 Ms. Strasser. Ms. Scanlon votes no.
800 Ms. Garcia?
801 Ms. Garcia. No.
802 Ms. Strasser. Ms. Garcia votes no.
803 Mr. Neguse?
804 Mr. Neguse. No.
805 Ms. Strasser. Mr. Neguse votes no.
806 Mrs. McBath?
807 Mrs. McBath. No.
808 Ms. Strasser. Mrs. McBath votes no.
809 Mr. Stanton?
810 Mr. Stanton. No.
811 Ms. Strasser. Mr. Stanton votes no.
812 Ms. Dean?
813 Ms. Dean. No.
814 Ms. Strasser. Ms. Dean votes no.

815 Ms. Mucarsel-Powell?

816 Ms. Mucarsel-Powell. No.

817 Ms. Strasser. Ms. Mucarsel-Powell votes no.

818 Ms. Escobar?

819 Ms. Escobar. No.

820 Ms. Strasser. Ms. Escobar votes no.

821 Mr. Collins?

822 Mr. Collins. Aye.

823 Ms. Strasser. Mr. Collins votes aye.

824 Mr. Sensenbrenner?

825 Mr. Sensenbrenner. Aye.

826 Ms. Strasser. Mr. Sensenbrenner votes aye.

827 Mr. Chabot?

828 Mr. Chabot. Aye.

829 Ms. Strasser. Mr. Chabot votes aye.

830 Mr. Gohmert?

831 Mr. Gohmert. I vote aye for the non-dilatory motion.

832 Ms. Strasser. Mr. Gohmert votes aye.

833 Mr. Jordan?

834 Mr. Jordan. Yes.

835 Ms. Strasser. Mr. Jordan votes yes.

836 Mr. Buck?

837 Mr. Buck. Aye.

838 Ms. Strasser. Mr. Buck votes aye.

839 Mr. Ratcliffe?

840 Mrs. Roby?

841 Mrs. Roby. Aye.

842 Ms. Strasser. Mrs. Roby votes aye.

843 Mr. Gaetz?

844 Mr. Gaetz. Aye.

845 Ms. Strasser. Mr. Gaetz votes aye.

846 Mr. Johnson of Louisiana?

847 Mr. Johnson of Louisiana. Aye.

848 Ms. Strasser. Mr. Johnson of Louisiana votes aye.

849 Mr. Biggs?

850 Mr. Biggs. Aye.

851 Ms. Strasser. Mr. Biggs votes aye.

852 Mr. McClintock?

853 Mrs. Lesko?

854 Mrs. Lesko. Aye.

855 Ms. Strasser. Mrs. Lesko votes aye.

856 Mr. Reschenthaler?

857 Mr. Reschenthaler. Aye.

858 Ms. Strasser. Mr. Reschenthaler votes aye.

859 Mr. Cline?

860 Mr. Cline. Aye.

861 Ms. Strasser. Mr. Cline votes aye.

862 Mr. Armstrong?

863 Mr. Armstrong. Yes.

864 Ms. Strasser. Mr. Armstrong votes yes.

865 Mr. Steube?

866 Mr. Steube. Yes.

867 Ms. Strasser. Mr. Steube votes yes.

868 Chairman Nadler. Has everyone voted who wishes to vote?

869 The gentleman from Florida?

870 Mr. Deutch. No.

871 Ms. Strasser. Mr. Deutch votes no.

872 Chairman Nadler. The gentleman from Georgia?

873 Mr. Johnson of Georgia. No.

874 Ms. Strasser. Mr. Johnson of Georgia votes no.

875 Chairman Nadler. The gentlelady from California?

876 Ms. Bass. No.

877 Ms. Strasser. Ms. Bass votes no.

878 Chairman Nadler. Anyone else?

879 [No response.]

880 Chairman Nadler. The clerk will report.

881 Ms. Strasser. Mr. Chairman, the vote is 15 ayes, 22

882 noes.

883 Chairman Nadler. The motion is approved.

884 The gentleman from Florida is recognized for the purpose

885 of an amendment.

886 Mr. Collins. We just tabled it.

887 Chairman Nadler. Oh, okay. Excuse me. A reporting

888 quorum being present, the question is on the adoption of the

889 motion pursuant to House Rule 11, Clause 2(j)(2)(C).

890 Mr. Sensenbrenner. Mr. Chairman?

891 Chairman Nadler. Those in favor, say aye?

892 Mr. Sensenbrenner. Mr. Chairman? Mr. Chairman?

893 Chairman Nadler. Opposed, no?

894 Mr. Sensenbrenner. Mr. Chairman?

895 Chairman Nadler. The ayes have it. The motion --

896 Mr. Sensenbrenner. Mr. Chairman?

897 Chairman Nadler. The ayes have it. The motion is

898 approved.

899 Mr. Sensenbrenner. Mr. Chairman, I seek recognition.

900 Chairman Nadler. The motion is agreed to.

901 Mr. Sensenbrenner. You won't recognize members of the

902 committee --

903 Chairman Nadler. Unless --

904 Mr. Sensenbrenner. -- who want to speak on this motion?

905 Chairman Nadler. Does anyone wish to ask for a recorded

906 vote?

907 Mr. Sensenbrenner. Mr. Chairman, I have asked for

908 recognition.

909 Chairman Nadler. The clerk will call the roll.

910 Voice. Recorded vote.

911 Mr. Sensenbrenner. You are not allowing the Republicans

912 to --

913 Chairman Nadler. The clerk will report the result.

914 Mr. Sensenbrenner. If you are not Republicans -- you

915 are not allowing Republicans to debate this motion?

916 Mr. Gohmert. We didn't vote on the question.

917 Chairman Nadler. The clerk will --

918 Mr. Gohmert. -- record here. We ought to be going by
919 the rules and giving people a chance to debate.

920 Chairman Nadler. The clerk will report the result.

921 Mr. Gohmert. No wonder the AG doesn't want to come here
922 and testify when you are running things without regard for
923 debate.

924 Chairman Nadler. The gentleman will suspend.

925 Mr. Gohmert. Totally unfair.

926 Chairman Nadler. We are in the middle of a vote. The
927 clerk will report the result.

928 Mr. Sensenbrenner. Mr. Chairman --

929 Mr. Collins. So we get no amendments. Hold on a
930 second. Point of personal inquiry.

931 Chairman Nadler. The clerk will report the result.

932 Regular order. The parliamentary inquiry will be entertained
933 after the clerk reports the result.

934 Mr. Sensenbrenner. Mr. Chairman --

935 Chairman Nadler. The clerk will report the result, and
936 then we will --

937 Voice. There hasn't been a roll call yet. You just
938 said the ayes have it.

939 Chairman Nadler. Do you want the ayes to call the roll?

940 I am sorry.

941 Mr. Jordan. Mr. Chairman --

942 Mr. Collins. We have already asked for it.

943 Mr. Jordan. I thought you recognized the gentleman from
944 Florida for an amendment.

945 Chairman Nadler. The clerk will call the roll.

946 Mr. Sensenbrenner. Mr. Chairman, you said you were
947 going to recognize Mr. Gaetz for an amendment.

948 Chairman Nadler. The clerk will call the roll.

949 Mr. Chabot. Mr. Chairman, move to table.

950 Chairman Nadler. Move to table what?

951 Mr. Gaetz. Mr. Chairman, I move to amend.

952 Chairman Nadler. The clerk will call the roll.

953 Mr. Chabot. Mr. Chairman, I move to adjourn.

954 Chairman Nadler. We are in the middle of a --

955 Mr. Sensenbrenner. No, we are not.

956 Mr. Gohmert. No, no, we were in the middle of debate,
957 and you --

958 Mr. Sensenbrenner. -- middle of debate.

959 Mr. Gohmert. -- and you ended it without the question
960 being called --

961 Mr. Sensenbrenner. Mr. Chairman --

962 Mr. Gaetz. I was in the middle of offering an
963 amendment.

964 Mr. Chabot. Mr. Chairman, I move to adjourn.

965 Chairman Nadler. Regular order.

966 Mr. Sensenbrenner. Regular order. He has put in a
967 motion to adjourn. That is a privileged motion.

968 Voice. Motion to adjourn.

969 Mr. Chabot. Mr. Chairman, I move to adjourn.

970 Mr. Collins. Motion to adjourn.

971 Chairman Nadler. A motion to adjourn is not in order in
972 the middle of a roll call.

973 Mr. Sensenbrenner. Well, the roll has not been called
974 yet.

975 Mr. Gohmert. We were in the middle of debate.

976 Chairman Nadler. The ayes and nays --

977 Mr. Gohmert. You didn't allow it.

978 Mr. Gaetz. I was in the middle of offering an
979 amendment.

980 Voice. Mr. Chairman --

981 Chairman Nadler. The ayes and nays --

982 Mr. Sensenbrenner. Mr. Chairman --

983 Chairman Nadler. -- roll call vote.

984 Voice. -- ruling of the chair.

985 Voice. -- Florida.

986 Voice. Yeah.

987 Chairman Nadler. The gentleman requests a recorded
988 vote, and the clerk will call the roll.

989 Ms. Strasser. Mr. Nadler --

990 Voice. And you said you would take --

991 Chairman Nadler. The clerk will report the result.

992 Voice. Can you recognize the man from Florida?

993 Chairman Nadler. The clerk will report the result.

994 Voice. Mr. Chairman, I appeal the ruling of the chair

995 on the motion to adjourn, which is a privileged resolution.

996 Ms. Strasser. Mr. Chairman, there were 15 ayes --

997 Voice. Mr. Chairman, I appeal.

998 Chairman Nadler. We are finished.

999 Mr. Collins. That was on the table.

1000 Mr. Sensenbrenner. That was on table.

1001 Chairman Nadler. The clerk will report the result.

1002 Mr. Collins. I mean, we can sit here and ram this

1003 through and the choo-choo train is on the track, but if you

1004 want --

1005 Ms. Strasser. Mr. Chairman, there were 15 ayes, 22

1006 noes. Fifteen ayes, 22 noes on the motion to table.

1007 Chairman Nadler. The motion to table is not adopted.

1008 Mr. Sensenbrenner. Mr. Chairman.

1009 Mr. Collins. How about an amendment?

1010 Chairman Nadler. Wait a minute. That was a motion to

1011 table --

1012 Mr. Sensenbrenner. Mr. Chairman --

1013 Mr. Gohmert. We didn't even get the results of the

1014 earlier vote.

1015 Mr. Sensenbrenner. We just did. Mr. Chairman?

1016 Mr. Gohmert. No, the one before that.

1017 Mr. Sensenbrenner. Mr. Chairman?

1018 Chairman Nadler. The motion to table is not adopted.

1019 Mr. Sensenbrenner. Mr. Chairman?

1020 Chairman Nadler. The next item on the agenda was Mr.

1021 Gaetz --

1022 Mr. Cicilline. No need to apologize, gentlemen.

1023 Chairman Nadler. -- for an amendment. That whole thing

1024 was on a motion to table, which was not adopted.

1025 Mr. Gaetz. I have an amendment at the desk.

1026 Chairman Nadler. Wait a minute. Table what? Table

1027 what?

1028 Mr. Cicilline. Mr. Chairman, I reserve a point of order

1029 on the amendment.

1030 Chairman Nadler. Wait a minute. Mr. Gaetz is offering

1031 an amendment, correct?

1032 Mr. Collins. Yes.

1033 Mr. Cicilline. And I reserve a point of order, Mr.

1034 Chairman.

1035 Chairman Nadler. Oh, okay. A point of order is

1036 reserved. The clerk will report the amendment.

1037 Ms. Strasser. Amendment to the motion offered by

1038 Chairman Nadler, offered by Mr. Gaetz of Florida, amend the

1039 motion to read as follows: "Motion to remove Attorney

1040 General William Barr as the witness on the May 2nd, 2019 full
1041 committee hearing entitled, "Oversight of the U.S. Department
1042 of Justice: Report by Special Counsel Robert S. Mueller,
1043 III, on the Special Counsel's Investigation Into Russian
1044 Interference in the 2016 Presidential Election, and Related
1045 Matters," and replace "Attorney General Barr" with "Special
1046 Counsel Mueller" at the May 2nd, 2019 hearing.

1047 [The amendment of Mr. Gaetz follows:]

1048

1049 Chairman Nadler. Does the gentleman insist on his point
1050 of order?

1051 Mr. Cicilline. Yes, Mr. Chairman.

1052 Chairman Nadler. The gentleman will state his point of
1053 order.

1054 Mr. Cicilline. Mr. Chairman, I don't think this
1055 amendment is germane. It changes completely the purpose of
1056 the motion, and I would ask --

1057 Mr. Gaetz. Mr. Chairman, am I able to introduce my --
1058 Chairman Nadler. The gentleman from Rhode Island is
1059 explaining his point of order. The gentleman will continue.

1060 Mr. Cicilline. Mr. Chairman, the motion before the
1061 committee is to extend the questioning of a witness that has
1062 been requested to appear for an additional hour by staff.
1063 This motion before us to change the witness, so I believe it
1064 is not germane to the motion before the committee.

1065 Mr. Sensenbrenner. Mr. Chairman?

1066 Chairman Nadler. The gentleman is --

1067 Mr. Sensenbrenner. Mr. Chairman, on the point of
1068 order --

1069 Chairman Nadler. Excuse me. The gentleman from Rhode
1070 Island has made a point of order. I am going to rule on the
1071 point of order.

1072 Mr. Sensenbrenner. Mr. Chairman --

1073 Chairman Nadler. Another point of order is not in order

1074 at this point.

1075 Mr. Sensenbrenner. Mr. Chairman, on the current point
1076 of order.

1077 Chairman Nadler. Does the gentleman wish to be heard?

1078 Mr. Sensenbrenner. Yes, I do.

1079 Chairman Nadler. The gentleman is recognized.

1080 Mr. Sensenbrenner. Mr. Chairman, the subject matter of
1081 the hearing was the report on the special counsel's
1082 investigation. All this motion does is change the witnesses.
1083 It does not change the subject matter of the hearing. It
1084 continues to be on the investigation by the special counsel,
1085 and what the gentleman from Florida is proposing to do is
1086 merely to change the name of the witness. That means it is
1087 germane because the topic of the hearing is not going to be
1088 changed. That remains exactly the way it was announced by
1089 the chair in his notice of the hearing tomorrow. The point
1090 of order that it is not germane should be held not well
1091 taken.

1092 Chairman Nadler. The chair is prepared to rule on the
1093 point of order. The points made by the gentleman from
1094 Wisconsin are irrelevant because the amendment is not to the
1095 hearing notice. It would be un-germane to that also. The
1096 motion before us is to permit staff counsel to question the
1097 witnesses. That is the motion before us. The amendment
1098 talks about who the witness is, not about the procedure for

1099 questioning the witness, which is what the motion is about.

1100 It is beyond the scope of the motion. It is totally un-
1101 germane. It is, therefore, out of order, and I so rule that
1102 is out of order.

1103 Mr. Sensenbrenner. Mr. Chairman, I appeal the ruling of
1104 the chair.

1105 Mr. Gaetz. Mr. Chairman, I appeal the ruling.

1106 Chairman Nadler. The gentleman appeals the ruling of
1107 the chair.

1108 Mr. Johnson of Georgia. Motion to table.

1109 Chairman Nadler. There is a motion to table the appeal
1110 of the ruling of the chair.

1111 All in favor of the motion to table, say aye?

1112 Opposed?

1113 Chairman Nadler. The ayes have it.

1114 Mr. Sensenbrenner. Roll call.

1115 Chairman Nadler. A roll call vote is requested on the
1116 motion to table the appeal of the ruling of the chair.

1117 The clerk will call the roll.

1118 The gentleman requests a recorded vote, and the clerk
1119 will call the roll.

1120 Ms. Strasser. Mr. Nadler?

1121 Chairman Nadler. Aye.

1122 Ms. Strasser. Mr. Nadler votes aye.

1123 Ms. Lofgren?

1124 Ms. Jackson Lee?

1125 Ms. Jackson Lee. Aye.

1126 Ms. Strasser. Ms. Jackson Lee votes aye.

1127 Mr. Cohen?

1128 Mr. Johnson of Georgia?

1129 Mr. Johnson of Georgia. Aye.

1130 Ms. Strasser. Mr. Johnson of Georgia votes aye.

1131 Mr. Deutch?

1132 Mr. Deutch. Aye.

1133 Ms. Strasser. Mr. Deutch votes aye.

1134 Ms. Bass?

1135 Mr. Richmond?

1136 Mr. Jeffries?

1137 Mr. Cicilline?

1138 Mr. Cicilline. Aye.

1139 Ms. Strasser. Mr. Cicilline votes aye.

1140 Mr. Swalwell?

1141 Mr. Lieu?

1142 Mr. Lieu. Aye.

1143 Ms. Strasser. Mr. Lieu votes aye.

1144 Mr. Raskin?

1145 Mr. Raskin. Aye.

1146 Ms. Strasser. Mr. Raskin votes aye.

1147 Ms. Jayapal?

1148 Ms. Jayapal. Aye.

1149 Ms. Strasser. Ms. Jayapal votes aye.
1150 Mrs. Demings?
1151 Mrs. Demings. Aye.
1152 Ms. Strasser. Mrs. Demings votes aye.
1153 Mr. Correa?
1154 Mr. Correa. Aye.
1155 Ms. Strasser. Mr. Correa votes aye.
1156 Ms. Scanlon?
1157 Ms. Scanlon. Aye.
1158 Ms. Strasser. Ms. Scanlon votes aye.
1159 Ms. Garcia?
1160 Ms. Garcia. Aye.
1161 Ms. Strasser. Ms. Garcia votes aye.
1162 Mr. Neguse?
1163 Mr. Neguse. Aye.
1164 Ms. Strasser. Mr. Neguse votes aye.
1165 Mrs. McBath?
1166 Mrs. McBath. Aye.
1167 Ms. Strasser. Mrs. McBath votes aye.
1168 Mr. Stanton?
1169 Mr. Stanton. Aye.
1170 Ms. Strasser. Mr. Stanton votes aye.
1171 Ms. Dean?
1172 Ms. Dean. Aye.
1173 Ms. Strasser. Ms. Dean votes aye.

1174 Ms. Mucarsel-Powell?
1175 Ms. Mucarsel-Powell. Aye.
1176 Ms. Strasser. Ms. Mucarsel-Powell votes aye.
1177 Ms. Escobar?
1178 Ms. Escobar. Aye.
1179 Ms. Strasser. Ms. Escobar votes aye.
1180 Mr. Collins?
1181 Mr. Collins. No.
1182 Ms. Strasser. Mr. Collins votes no.
1183 Mr. Sensenbrenner?
1184 Mr. Sensenbrenner. No.
1185 Ms. Strasser. Mr. Sensenbrenner votes no.
1186 Mr. Chabot?
1187 Mr. Chabot. No.
1188 Ms. Strasser. Mr. Chabot votes no.
1189 Mr. Gohmert?
1190 Mr. Gohmert. No.
1191 Ms. Strasser. Mr. Gohmert votes no.
1192 Mr. Jordan?
1193 Mr. Jordan. No.
1194 Ms. Strasser. Mr. Jordan votes no.
1195 Mr. Buck?
1196 Mr. Buck. No.
1197 Ms. Strasser. Mr. Buck votes no.
1198 Mr. Ratcliffe?

1199 Mrs. Roby?
1200 Mrs. Roby. No.
1201 Ms. Strasser. Mrs. Roby votes no.
1202 Mr. Gaetz?
1203 Mr. Gaetz. No.
1204 Ms. Strasser. Mr. Gaetz votes no.
1205 Mr. Johnson of Louisiana?
1206 Mr. Johnson of Louisiana. No.
1207 Ms. Strasser. Mr. Johnson of Louisiana votes no.
1208 Mr. Biggs?
1209 Mr. Biggs. No.
1210 Ms. Strasser. Mr. Biggs votes no.
1211 Mr. McClintock?
1212 Mrs. Lesko?
1213 Mrs. Lesko. No.
1214 Ms. Strasser. Mrs. Lesko votes no.
1215 Mr. Reschenthaler?
1216 Mr. Reschenthaler. No.
1217 Ms. Strasser. Mr. Reschenthaler votes no.
1218 Mr. Cline?
1219 Mr. Cline. No.
1220 Ms. Strasser. Mr. Cline votes no.
1221 Mr. Armstrong?
1222 Mr. Armstrong. No.
1223 Ms. Strasser. Mr. Armstrong votes no.

1224 Mr. Steube?

1225 Mr. Steube. No.

1226 Ms. Strasser. Mr. Steube votes no.

1227 Ms. Lofgren. Mr. Chairman, how am I recorded?

1228 Ms. Strasser. Ms. Lofgren, you are not recorded.

1229 Ms. Lofgren. Aye.

1230 Ms. Strasser. Ms. Lofgren votes aye.

1231 Mr. Cohen. The gentleman from Tennessee votes aye.

1232 Ms. Strasser. Mr. Cohen votes aye.

1233 Chairman Nadler. The gentlelady from California?

1234 Ms. Bass. Aye.

1235 Ms. Strasser. Ms. Bass votes aye.

1236 Chairman Nadler. Has everyone voted that wishes to

1237 vote?

1238 [No response.]

1239 Chairman Nadler. The clerk will report the result.

1240 Mr. Jeffries. Mr. Chairman, how am I recorded?

1241 Ms. Strasser. Mr. Jeffries, you are not recorded.

1242 Mr. Jeffries. Aye.

1243 Ms. Strasser. Mr. Jeffries votes aye.

1244 Chairman Nadler. Is everyone recorded? The gentlelady

1245 from Georgia? She is recorded.

1246 The clerk will announce the results.

1247 Ms. Strasser. Mr. Chairman, there are 22 ayes and 15

1248 noes.

1249 Chairman Nadler. The motion to table is approved.

1250 Mr. Sensenbrenner. Mr. Chairman?

1251 Chairman Nadler. Is there an amendment at the desk?

1252 Mr. Sensenbrenner. Mr. Chairman?

1253 Chairman Nadler. Is there an amendment at the desk?

1254 Whose amendment is it?

1255 Mrs. Lesko. Mr. Chairman?

1256 Chairman Nadler. The gentlelady from Arizona is

1257 recognized --

1258 Mrs. Lesko. Yes.

1259 Chairman Nadler. -- for the purpose of an amendment.

1260 Mrs. Lesko. Mr. Chairman, I have an amendment at the

1261 desk.

1262 Chairman Nadler. We know that. The gentlelady is

1263 recognized.

1264 Mr. Cicilline. Mr. Chairman, I reserve a point of

1265 order.

1266 Chairman Nadler. The gentleman reserves a point of

1267 order. The gentlelady will explain her amendment.

1268 [The amendment of Mrs. Lesko follows:]

1269

1270 Mrs. Lesko. Thank you, Mr. Chair. The amendment says
1271 it will strike the words "committee staff" and insert
1272 "committee staff holding a valid election certificate to the
1273 United States House of Representatives."

1274 [Laughter.]

1275 Mrs. Lesko. Yes, it made me laugh when I thought about
1276 it, too, because all members of Congress can ask whatever
1277 questions they want. We already agreed to a motion by the
1278 chairman to extend the amount of time for another hour, and
1279 so there is no rules that say that an attorney for the
1280 Democrat staff can't stand right behind a member of Congress
1281 and hand them the exact question that they want to ask. And
1282 so I see no reason for a staff member to be able to be
1283 requested to ask questions of the witness when members of
1284 Congress can do so.

1285 And we already passed a motion that said we would be
1286 given an extra hour to do so, and that, again, if a committee
1287 staff member holds a certificate of election for the United
1288 States House of Representatives, then they can ask questions.
1289 Otherwise, they should not.

1290 Chairman Nadler. Does the gentleman insist on his point
1291 of order?

1292 Mr. Cicilline. Well, Mr. Chairman, the House Rules
1293 provide for staff questioning, so this notion that this is
1294 some unprecedented move of the Judiciary Committee actually

1295 trying to find the truth and find the facts is --

1296 Mr. Collins. Will the gentleman yield for a question?

1297 Mr. Cicilline. Just let me finish -- is stunning to me.

1298 But I think it basically, it eviscerates the underlying

1299 motion. But I withdraw my challenge to its germaneness and

1300 urge my colleagues --

1301 Mr. Raskin. Would the gentleman yield?

1302 Voice. Would the gentleman yield?

1303 Voice. Mr. Chairman?

1304 Chairman Nadler. Who is that?

1305 Mr. Cicilline. I yield to the gentleman from Maryland.

1306 Mr. Raskin. Thank you very much, Mr. Cicilline, but I

1307 want to add a couple of points to what you have just said.

1308 The first thing is that it, of course, would be illegal for a

1309 member of the House of Representatives to be on the committee

1310 staff, and if that is the intention of it. The premise of

1311 this amendment is built on an impossibility, okay? Unless

1312 when you use the word or your staff uses the words, "holding

1313 a certificate," means in their hand. And maybe I will yield

1314 to the purpose of saying do you mean committee staff who

1315 literally holds a certificate in their hand? Is what your

1316 staff meant when they wrote this?

1317 Mrs. Lesko. Mr. Chair, I would like to respond.

1318 Chairman Nadler. The gentlelady is recognized.

1319 Mrs. Lesko. Thank you, Mr. Chair. What I meant by this

1320 is it just as ridiculous to ask members of staff to be able
1321 to question for an extra hour. And so, again --

1322 Mr. Raskin. Okay. Reclaiming my time. Thank you.

1323 Mrs. Lesko. -- any member --

1324 Mr. Raskin. That does it. I got where you are going.

1325 Look, Mr. Chairman, you know, the distinguished ranking
1326 member of the committee started off by saying we should get
1327 to the work of the American people, and we have a very
1328 important piece of legislation that we are trying to get to.
1329 And yet all we are getting are these obstructionist
1330 legislative tactics --

1331 Mr. Sensenbrenner. Mr. Chairman, would the gentleman
1332 yield?

1333 Mr. Raskin. No, I will not yield for a second, and it
1334 is not my time to yield anyway. But I want to make this
1335 point. All of this is a major distraction from one of the
1336 most extraordinary pieces of correspondence in the history of
1337 the Department of Justice, which was just made available, I
1338 think, to members of the committee. Somebody put it on my
1339 desk, and I want to state what this is. This is an
1340 extraordinary letter that was written to Attorney General
1341 William Barr by the special counsel, Robert Mueller, III, on
1342 March the 27th.

1343 And what it details, Mr. Chairman, is this remarkable
1344 chronology where on March 22nd, Attorney General Barr was

1345 given the special counsel's report on the investigation into
1346 the events surrounding the 2016 campaign and Russian
1347 influence. That was on March the 22nd. Two days later,
1348 Attorney General Barr sent the now infamous 4-page public
1349 relations letter to Congress stating that he needed all of
1350 this time in order to go do the redaction and so on. It was
1351 a very complicated process.

1352 The very next day, then Special Counsel Mueller the very
1353 next day sent a letter, dated the 25th, which, according to
1354 this letter on the 27th, enclosed "the introduction and
1355 executive summary for each volume of the special counsel
1356 report marked with redactions to remove any information that
1357 could be protected by Federal Rule of Criminal Procedure
1358 6(e)." In other words, Mueller did the work that Attorney
1359 General Barr said he had to do. All of the deletions had
1360 already been made that concerned declination decisions -- he
1361 had already discussed that -- or related to a charged case;
1362 in other words, a competing case and material that needed to
1363 be removed there. All of that had already been done.

1364 "We also had marked an additional two sentences for
1365 review," okay? So that was on March the 25th. So there were
1366 two sentences that needed to be reviewed, and Attorney
1367 General Barr held up the report for the next 3-and-a-half
1368 weeks. But on March 27th, apparently the special counsel was
1369 so incensed by the obstructionism of the Attorney General of

1370 the United States, he sent another letter stating all of this
1371 and saying, "We have now confirmed that these two sentences
1372 can be released publicly. Accordingly, the enclosed
1373 documents are in a form that can be released to the public
1374 consistent with legal requirements and Department policies.
1375 I am requesting that you provide these materials to Congress
1376 and authorize their public release at this time."

1377 That was on March 27th. Mr. Chairman, the Attorney
1378 General did not release the redacted report until 22 days
1379 later, April 18th. This is a pattern of outrageous
1380 obstructionism that continues, the obstructionism contained
1381 in the report and that we saw on hand unfortunately from our
1382 cherished colleagues today as they throw up ridiculous
1383 amendment after ridiculous amendment. I yield back to the
1384 gentleman, Mr. Cicilline.

1385 Chairman Nadler. The gentleman --

1386 Mr. Cicilline. I thank the gentleman. And I would just
1387 ask in light of that very eloquent set of remarks from the
1388 gentleman from Maryland whether the gentl lady from Arizona
1389 will withdraw her amendment so we can get to the truth in a
1390 serious way.

1391 Mrs. Lesko. No, I will not withdraw my amendment.

1392 Chairman Nadler. The gentleman had withdrawn --

1393 Mr. Biggs. Mr. Chairman?

1394 Chairman Nadler. The gentleman has withdrawn --

1395 Mr. Biggs. Mr. Chairman?

1396 Chairman Nadler. The gentleman has withdrawn his point
1397 of order. The gentlelady has spoken in favor of her
1398 amendment.

1399 Mr. Biggs. Mr. Chairman?

1400 Chairman Nadler. I will speak in opposition to her
1401 amendment.

1402 Mr. Jordan. They want to speak.

1403 Chairman Nadler. I will recognize myself for 5 minutes.

1404 Mr. Jordan. It is our turn.

1405 Chairman Nadler. The amendment is, frankly, ridiculous
1406 because --

1407 Mr. Jordan. Isn't it our turn?

1408 Chairman Nadler. No. The gentlelady spoke, and then
1409 there was a point of order. The amendment is ridiculous
1410 because it says, in effect, we disapprove of the motion. If
1411 you disapprove of the motion, you vote against the motion.
1412 You don't have an amendment to say we don't like the motion.
1413 That is all the amendment does, number one.

1414 Number two, let's be real about what is going on here.
1415 The Attorney General of the United States is afraid to
1416 subject himself to questioning for more than 5 minutes at a
1417 time by a lawyer in front of this committee. Why is he
1418 afraid? Maybe because he clearly misrepresented and has been
1419 dishonest with the American people?

1420 Mr. Collins. Mr. Chairman?

1421 Chairman Nadler. Maybe --

1422 Mr. Collins. Mr. Chairman, that has not been said and
1423 that has not been stated.

1424 Chairman Nadler. That is my speculation.

1425 Mr. Collins. Well --

1426 Chairman Nadler. Maybe because --

1427 Mr. Collins. Impugning the character at the same time
1428 is what we are doing here.

1429 Chairman Nadler. The facts are what they are. For
1430 whatever reason he is afraid, he apparently does not want to
1431 answer questions. The committee wants him to answer
1432 questions. The committee is entitled to have its procedures.
1433 The minority on the committee is entitled to oppose the
1434 manner of asking questions, and that is what the motion
1435 before us does. That motion should be -- I am sorry -- and
1436 what their opposition to the motion before us does.

1437 However, this motion is a very simple motion, to permit
1438 questioning by staff. You are either for it, and there are
1439 reasons for it, or you are against it, and there are reasons
1440 against it. We have to get to a very important piece of
1441 legislation. The ranking member told us in his opening
1442 statement that he was going to engage in dilatory tactics.
1443 We see those dilatory tactics now. Instead of just opposing
1444 the motion, which they are entitled to do, and explaining

1445 their reasoning --

1446 Mr. Jordan. Well, let's just debate the motion.

1447 Chairman Nadler. Which they are --

1448 Mr. Jordan. We will debate the motion.

1449 Ms. Lofgren. Point of order.

1450 Chairman Nadler. Instead of just opposing the motion
1451 and explaining their reasons for opposing the motion, they
1452 are instead offering, frankly, silly amendments just to waste
1453 time. We can debate the motion. We will debate the motion,
1454 but we are going to get to a vote on the motion within half
1455 an hour because we have to go to a very important bill. And
1456 the motion is very simple, and either you propose to allow
1457 staff to question the witness or you don't. The motion does
1458 not need lots of amendments or lots of debate. That is
1459 simply dilatory, and this committee cannot function if
1460 members simply seek to waste as much time as possible. That
1461 is not a legitimate tactic in opposition.

1462 Are there any other people who want to --

1463 Mr. Jordan. Mr. Chairman?

1464 Mr. Sensenbrenner. Mr. Chairman?

1465 Chairman Nadler. Wait a minute. Wait, wait, wait, slow
1466 down. We are debating the Lesko amendment. Are there any
1467 other --

1468 Mr. Gohmert. Mr. Chairman?

1469 Chairman Nadler. Are there any other people who seek

1470 recognition on the Lesko amendment?

1471 Mr. Sensenbrenner. Mr. Chairman?

1472 Voice. Mr. Chairman?

1473 Chairman Nadler. The gentleman from Wisconsin.

1474 Mr. Sensenbrenner. Mr. Chairman, I move to strike the
1475 last word.

1476 Chairman Nadler. The gentleman is recognized.

1477 Mr. Sensenbrenner. Mr. Chairman, if the majority were
1478 so hot to get to the next bill, they could have supported the
1479 motion to table, and we could have started on the next bill
1480 half an hour ago. They chose not to do so. What is going on
1481 here I have never seen. I have been on this committee
1482 throughout my service in Congress, over 40 years. I have
1483 never seen, no matter how partisan the matter has become, an
1484 attempt to actually railroad through changes in procedure.

1485 Now, I want to talk a little bit about the changes of
1486 procedure, you know, which goes to who can ask questions.
1487 Now, last night CNN, you know, said, and I am somewhat
1488 paraphrasing, that there are some instances where the staff
1489 has been able to ask questions. And they talked about both
1490 the Richard Nixon and Bill Clinton impeachment inquiries.
1491 The chairman has repeatedly said this is not an impeachment
1492 inquiry. It is oversight.

1493 Now, you are trying to have it both ways over on the
1494 majority side. You are trying to use the procedures of an

1495 impeachment committee in doing oversight, and that is not
1496 fair to the witness, and it is not fair to members of the
1497 committee or to the American public. Now, you know, there
1498 have been staffers outside of formal public hearing committee
1499 processes that have interviewed and asked questions of
1500 Cabinet officials, and that is part of the job of the Cabinet
1501 officials who want to do that, you know. It is up to the
1502 Cabinet official to decide to do that. But we have never in
1503 the 40 years that I have been on this committee had staff
1504 interview or ask questions of a Cabinet official during a
1505 public hearing, and what the chairman is proposing to do is
1506 unprecedented.

1507 Now, he talks a little bit about what happened in the
1508 Iran-Contra hearings in 1987. I was around here then. I
1509 wasn't on the committee, but I was around here. And the
1510 *Washington Post* reported that a committee aide told the *Post*
1511 that there was also agreement that if members of the Cabinet
1512 were going to be confronted, it should be done by senators
1513 and congressmen, not the staff. And they were referring
1514 directly to Secretary of State George Schultz and Attorney
1515 General Edwin Meese at the time.

1516 Now, you know, one of the reasons during my chairmanship
1517 in the last decade that this committee operated so
1518 efficiently, that there were 115 Judiciary Committee bills
1519 that were passed by both houses and signed into law by the

1520 President of the United States, is that we didn't get
1521 involved in procedural folderol which is going on now. And
1522 if the chairman wants to keep on going through with this,
1523 there is no justice in the Judiciary Committee. And that is
1524 something that will permanently scar this committee and set a
1525 precedent that will last for a long, long time, long after
1526 all of us leave the Congress, and maybe long enough where all
1527 of us have passed on to our great rewards.

1528 I would implore the chairman to think about what he is
1529 doing, to think about the precedent he is setting. There has
1530 to be justice in this committee, and where there has to be
1531 justice to the minority party in this committee. You know,
1532 this committee throughout the last 4 or 5 decades has stood
1533 up for justice for minorities in this society, and we have
1534 passed landmark civil rights legislation, mostly on a
1535 bipartisan basis. And if we got involved in this kind of
1536 debate over procedure and shutting out contrary views, which
1537 is what is being proposed here, those laws never would have
1538 made it on the books at the time that they were actually
1539 passed, and our country would have been worse off for it.

1540 You know, this is more than whether Attorney General
1541 Barr is going to be questioned by the staff. This has
1542 consequences far beyond that. And I would ask the majority
1543 party, and particularly the chairman, to step back, to think
1544 about the consequences, to think about what happens long

1545 after this controversy is over with, long after the
1546 presidential election of 2020 has come and gone, because
1547 people around here have a long memory. And a bad precedent,
1548 which this is, is going to last forever. Please don't do it
1549 that way, and I yield back.

1550 Chairman Nadler. The gentleman from Arizona, Mr. Biggs,
1551 is recognized.

1552 Mr. Biggs. Thank you, Mr. Chairman.

1553 I am troubled at the proceedings today and the things
1554 that have been said. The gentlelady from Texas mentioned
1555 attorneys and counsel as a result will be the ones who -- if
1556 this motion passes, will be the one -- not the Lesko motion,
1557 but the chairman's motion -- will be the ones asking the
1558 question, but that is not necessarily so. Because the
1559 language in this motion says "staff."

1560 The chairman himself said that during his explanation
1561 that this would be concurrent with the additional hour that
1562 was just granted under the previous motion, but that is not
1563 accurate either because there is no mention of concurrency in
1564 this motion vis-a-vis the previous motion.

1565 Additionally, we have heard extensively from -- in a
1566 defense of opposing the Lesko motion and supporting the
1567 Nadler motion, reference to the letter. But the letter
1568 doesn't get to the question of whether we should allow staff
1569 to ask the questions. If you want to talk about something

1570 that is irrelevant and nongermene to this motion, it is the
1571 argument, oh, yes, well, there is this letter out here.
1572 Because the real question here is whether you are going to
1573 make this a pseudo impeachment hearing by allowing staff to
1574 ask the questions, which is unprecedented. And with that, I
1575 would ask for unanimous consent to admit this CNN article by
1576 Holmes Lybrand, dated Tuesday, April 30th of 2019.

1577 Chairman Nadler. Without objection.

1578 [The information follows:]

1579

1580 Mr. Biggs. Thank you.

1581 And then I think the fact that someone made a motion to
1582 table and the chairman referred to it as dilatory indicates
1583 this incredible hostility to normal procedure that we are
1584 seeing today. I view this as nothing more than a trial run
1585 for impeachment.

1586 But having said that, Mr. Chairman, I move to table the
1587 Lesko amendment.

1588 Chairman Nadler. The motion is made to table the Lesko
1589 amendment.

1590 All those in favor, say aye.

1591 Opposed?

1592 The amendment, the Lesko amendment is tabled.

1593 Mr. Biggs. Mr. Chairman, I move to amend -- I move to
1594 adjourn.

1595 Mr. Sensenbrenner. Mr. Chairman, I have a point of
1596 order.

1597 Chairman Nadler. Who moved to adjourn?

1598 Motion to adjourn takes precedence. Who made the motion
1599 to adjourn?

1600 Mr. Biggs. I did.

1601 Chairman Nadler. The clerk will call the roll on the
1602 motion to adjourn, which is not debatable.

1603 Ms. Strasser. Mr. Nadler?

1604 Chairman Nadler. Wait, wait, wait.

1605 All in favor of the motion to adjourn?

1606 Opposed, no.

1607 Roll call is requested. The clerk will call the roll on

1608 the motion to adjourn.

1609 Ms. Strasser. Mr. Nadler?

1610 Chairman Nadler. No.

1611 Ms. Strasser. Mr. Nadler votes no.

1612 Ms. Lofgren?

1613 Ms. Lofgren. No.

1614 Ms. Strasser. Ms. Lofgren votes no.

1615 Ms. Jackson Lee? Ms. Jackson Lee?

1616 Ms. Jackson Lee. No.

1617 Ms. Strasser. Ms. Jackson Lee votes no.

1618 Mr. Cohen?

1619 Mr. Johnson of Georgia?

1620 Mr. Johnson of Georgia. No.

1621 Ms. Strasser. Mr. Johnson of Georgia votes no.

1622 Mr. Deutch?

1623 Ms. Bass?

1624 Ms. Bass. No.

1625 Ms. Strasser. Ms. Bass votes no.

1626 Mr. Richmond?

1627 Mr. Jeffries?

1628 Mr. Jeffries. No.

1629 Ms. Strasser. Mr. Jeffries votes no.

1630 Mr. Cicilline?
1631 Mr. Cicilline. No.
1632 Ms. Strasser. Mr. Cicilline votes no.
1633 Mr. Swalwell?
1634 Mr. Lieu?
1635 Mr. Lieu. No.
1636 Ms. Strasser. Mr. Lieu votes no.
1637 Mr. Raskin?
1638 Mr. Raskin. No.
1639 Ms. Strasser. Mr. Raskin votes no.
1640 Ms. Jayapal?
1641 Ms. Jayapal. No.
1642 Ms. Strasser. Ms. Jayapal votes no.
1643 Mrs. Demings?
1644 Mrs. Demings. No.
1645 Ms. Strasser. Mrs. Demings votes no.
1646 Mr. Correa?
1647 Ms. Scanlon?
1648 Ms. Scanlon. No.
1649 Ms. Strasser. Ms. Scanlon votes no.
1650 Ms. Garcia?
1651 Ms. Garcia. No.
1652 Ms. Strasser. Ms. Garcia votes no.
1653 Mr. Neguse?
1654 Mr. Neguse. No.

1655 Ms. Strasser. Mr. Neguse votes no.
1656 Mrs. McBath?
1657 Mrs. McBath. No.
1658 Ms. Strasser. Mrs. McBath votes no.
1659 Mr. Stanton?
1660 Mr. Stanton. No.
1661 Ms. Strasser. Mr. Stanton votes no.
1662 Ms. Dean?
1663 Ms. Dean. No.
1664 Ms. Strasser. Ms. Dean votes no.
1665 Ms. Mucarsel-Powell?
1666 Ms. Escobar?
1667 Ms. Escobar. No.
1668 Ms. Strasser. Ms. Escobar votes no.
1669 Mr. Collins?
1670 Mr. Collins. Aye.
1671 Ms. Strasser. Mr. Collins votes aye.
1672 Mr. Sensenbrenner?
1673 Mr. Sensenbrenner. Aye.
1674 Ms. Strasser. Mr. Sensenbrenner votes aye.
1675 Mr. Chabot?
1676 Mr. Chabot. Aye.
1677 Ms. Strasser. Mr. Chabot votes aye.
1678 Mr. Gohmert?
1679 Mr. Gohmert. Aye.

1680 Ms. Strasser. Mr. Gohmert votes aye.
1681 Mr. Jordan?
1682 Mr. Jordan. Yes.
1683 Ms. Strasser. Mr. Jordan votes yes.
1684 Mr. Buck?
1685 Mr. Buck. Aye.
1686 Ms. Strasser. Mr. Buck votes aye.
1687 Mr. Ratcliffe?
1688 Mrs. Roby?
1689 Mrs. Roby. Aye.
1690 Ms. Strasser. Mrs. Roby votes aye.
1691 Mr. Gaetz?
1692 Mr. Gaetz. Aye.
1693 Ms. Strasser. Mr. Gates votes aye.
1694 Mr. Johnson of Louisiana?
1695 Mr. Johnson of Louisiana. Aye.
1696 Ms. Strasser. Mr. Johnson of Louisiana votes aye.
1697 Mr. Biggs?
1698 Mr. Biggs. Aye.
1699 Ms. Strasser. Mr. Biggs votes aye.
1700 Mr. McClintock?
1701 Mrs. Lesko?
1702 Mrs. Lesko. Aye.
1703 Ms. Strasser. Mrs. Lesko votes aye.
1704 Mr. Reschenthaler?

1705 Mr. Reschenthaler. Aye.

1706 Ms. Strasser. Mr. Reschenthaler votes aye.

1707 Mr. Cline?

1708 Mr. Cline. Aye.

1709 Ms. Strasser. Mr. Cline votes aye.

1710 Mr. Armstrong?

1711 Mr. Armstrong. Yes.

1712 Ms. Strasser. Mr. Armstrong votes yes.

1713 Mr. Steube?

1714 Mr. Steube. Yes.

1715 Ms. Strasser. Mr. Steube votes yes.

1716 Chairman Nadler. Has everyone voted who wishes to vote?

1717 The gentleman from Tennessee?

1718 Mr. Cohen. No.

1719 Ms. Strasser. Mr. Cohen votes no.

1720 Chairman Nadler. The gentleman from California?

1721 Mr. Correa. No.

1722 Ms. Strasser. Mr. Correa votes no.

1723 Chairman Nadler. The gentleman from Florida?

1724 Mr. Deutch. No.

1725 Ms. Strasser. Mr. Deutch votes no.

1726 Chairman Nadler. The gentlelady from Texas -- or

1727 Florida? I am sorry. Florida. I know Texas is big, but not

1728 that big.

1729 Ms. Mucarsel-Powell. No.

1730 Ms. Strasser. Ms. Mucarsel-Powell votes no.

1731 Chairman Nadler. Has everyone voted who wishes to vote?

1732 [No response.]

1733 Chairman Nadler. The clerk will announce the result.

1734 [Pause.]

1735 Ms. Strasser. Mr. Chairman, there are 15 ayes and 22

1736 noes.

1737 Mr. Cicilline. Mr. Chairman, I move the previous

1738 question.

1739 Chairman Nadler. The --

1740 Mr. Biggs. Mr. Chairman, point of order.

1741 [Gavel sounding.]

1742 Chairman Nadler. The clerk will announce the result.

1743 Ms. Strasser. Fifteen ayes and 22 noes.

1744 Chairman Nadler. The motion to adjourn is not adopted.

1745 For what purpose does the gentleman from Rhode Island

1746 seek recognition?

1747 Mr. Cicilline. Mr. Chairman, I move the previous

1748 question.

1749 Mr. Biggs. Point of order.

1750 Chairman Nadler. The question is --

1751 Mr. Biggs. Point of order.

1752 Chairman Nadler. The question is on ordering --

1753 Mr. Sensenbrenner. Point of order.

1754 Chairman Nadler. The question is on ordering --

1755 Mr. Biggs. Point of order.

1756 Chairman Nadler. The question is on the previous
1757 question. The motion is not debatable.

1758 Mr. Sensenbrenner. Point of order.

1759 Chairman Nadler. Point of order is not recognized. The
1760 motion is on the previous question.

1761 Mr. Biggs. Point of order.

1762 Mr. Sensenbrenner. Point of order. The previous
1763 question on what? The bill has been tabled.

1764 Mr. Biggs. It has been tabled. That is correct,

1765 Mr. Chairman.

1766 Point of order. The underlying Nadler motion has been
1767 just tabled. Under House practice, I am happy to make my
1768 point of order formal and read the rule.

1769 Mr. Cicilline. The motion to adjourn is what we just
1770 voted on.

1771 Mr. Biggs. No, we voted to table, and the rules of the
1772 House say when a proposed amendment to a pending measure is
1773 tabled, the pending measure also goes to the table.

1774 Chairman Nadler. When a proposed -- sorry, when a
1775 motion to table, what? When a motion -- when an amendment?

1776 Mr. Biggs. When a proposed amendment to a pending
1777 measure is tabled, the pending measure also goes to the
1778 table. That is in Section 7 of Chapter 29 of House practice.

1779 Chairman Nadler. Very well. The motion is tabled. I

1780 offer the motion again. I offer the same motion.

1781 Mr. Sensenbrenner. Point of order.

1782 Mr. Cicilline. Move the previous question.

1783 Mr. Collins. Move to strike the last word.

1784 Mr. Sensenbrenner. Point of order.

1785 Mr. Cicilline. I move the previous question,

1786 Mr. Chairman.

1787 Mr. Collins. Move to strike the last word.

1788 Mr. Sensenbrenner. Point of order.

1789 Chairman Nadler. That would be the same motion before

1790 the House --

1791 Mr. Cicilline. And I move the previous question.

1792 Chairman Nadler. The previous question is called --

1793 Mr. Sensenbrenner. Point of order, Mr. Chairman.

1794 Chairman Nadler. Previous question is called. The

1795 motion is not debatable.

1796 Mr. Collins. Motion to adjourn. Motion to adjourn.

1797 Chairman Nadler. All those in favor of the previous

1798 question, say aye.

1799 Opposed, say no.

1800 Mr. Sensenbrenner. No.

1801 Chairman Nadler. In the opinion of the chair, the ayes

1802 have it --

1803 Mr. Sensenbrenner. Roll call.

1804 Chairman Nadler. Roll call on the previous question.

1805 The clerk will call the roll.

1806 Ms. Strasser. Mr. Nadler?

1807 Mr. Gaetz. The motion wasn't read, Mr. Chairman. You
1808 never asked unanimous consent for the motion when you
1809 reintroduced it to be read. So a point of order --

1810 Chairman Nadler. All those opposed -- I am sorry.

1811 Mr. Collins. You can't do a motion. We are not ready.

1812 Mr. Cicilline. Point of order. We are in the middle of
1813 a vote.

1814 Chairman Nadler. We are in the middle of a vote.

1815 Mr. Gaetz. An improper vote, a vote that was called in
1816 the absence of reading the motion.

1817 Mr. Gohmert. The question on a motion that is not
1818 before the committee is what is before the committee.

1819 Mr. Collins. It doesn't exist. Move to adjourn.

1820 Chairman Nadler. Before the committee is the previous
1821 question. The clerk will call the roll.

1822 Mr. Gaetz. There is no previous question because there
1823 is no motion on --

1824 Mr. Sensenbrenner. Parliamentary inquiry, Mr. Chairman.

1825 [Crosstalk.]

1826 [Gavel sounding.]

1827 Chairman Nadler. Excuse me. The motion was -- the
1828 motion --

1829 Mr. Gaetz. The motion was not read.

1830 Voice. Move to adjourn.

1831 Chairman Nadler. The motion was reintroduced.

1832 Mr. Sensenbrenner. Parliamentary inquiry.

1833 Chairman Nadler. No one timely objected to the failure
1834 to read it.

1835 Mr. Gaetz. Oh, we were all objecting.

1836 Mr. Gohmert. We were all objecting.

1837 Mr. Sensenbrenner. We were all seeking attention.

1838 [Gavel sounding.]

1839 Mr. Sensenbrenner. Parliamentary inquiry. May I ask
1840 parliamentary inquiry?

1841 Chairman Nadler. The gentleman will suspend until
1842 recognized.

1843 Mr. Sensenbrenner. Parliamentary inquiry.

1844 Chairman Nadler. We cannot have people shouting over
1845 each other. The gentleman from Wisconsin will suspend.

1846 Mr. Sensenbrenner. Parliamentary inquiry.

1847 Chairman Nadler. Pursuant to notice and House Rule 11,
1848 Clause 2(j)(2)(C), I now move that the committee adopt the
1849 motion to permit committee staff, as designated by the chair
1850 and ranking member, to question the witness for an additional
1851 hour, equally divided between the majority and minority in a
1852 full committee hearing entitled "Oversight of the U.S.
1853 Department of Justice: Report by Special Counsel Robert
1854 Mueller III on the Investigation into Russian Interference in

1855 the 2016 Presidential Election and Related Matters."

1856 The clerk will report the motion.

1857 Ms. Strasser. Motion offered by Chairman Jerrold Nadler

1858 --

1859 Mr. Collins. Point of order.

1860 Ms. Strasser. Motion pursuant to House Rule 11, Clause

1861 2(j)(2)(C) to permit committee staff, as designated by the

1862 chair and ranking member, to question the witness for an

1863 additional hour, equally divided between the majority and

1864 minority at any full committee hearing entitled "Oversight of

1865 the U.S. Department of Justice: Report by Special Counsel

1866 Robert Mueller III on the Investigation into Russian

1867 Interference in the 2016 Presidential Election and Related

1868 Matters."

1869 Mr. Cicilline. I move the previous question.

1870 Mr. Collins. Point of order.

1871 Chairman Nadler. The gentleman -- the gentleman from

1872 Rhode Island is recognized.

1873 Mr. Collins. There was no notice for this -- there was

1874 notice for this motion.

1875 Mr. Cicilline. Mr. Chairman?

1876 Chairman Nadler. The gentleman from Rhode Island is

1877 recognized.

1878 Mr. Cicilline. I move the previous question.

1879 Voice. Second.

1880 Chairman Nadler. I will take notice of the fact that
1881 the ranking member shouted into my ear that no notice was
1882 given. No notice, I am told, is required.

1883 The gentleman from Rhode Island is recognized.

1884 Mr. Cicilline. I move the previous question.

1885 Chairman Nadler. The previous is --

1886 Mr. Jordan. I thought we were going to debate the
1887 underlying rule --

1888 Chairman Nadler. The motion is not debatable.

1889 All those in favor of the previous question will say
1890 aye.

1891 Opposed, no?

1892 In the opinion of the chair -- we are in the middle of a
1893 roll call vote --

1894 Voice. No, we are not.

1895 Chairman Nadler. In the opinion of the chair, the ayes
1896 have it, and the previous question is offered.

1897 Mr. Sensenbrenner. Roll call.

1898 Chairman Nadler. Roll call is requested. The clerk
1899 will call the roll on the motion on the previous question.

1900 Ms. Strasser. Mr. Nadler?

1901 Chairman Nadler. Aye.

1902 Ms. Strasser. Mr. Nadler votes aye.

1903 Ms. Lofgren?

1904 Ms. Lofgren. Aye.

1905 Ms. Strasser. Ms. Lofgren votes aye.

1906 Ms. Jackson Lee?

1907 Ms. Jackson Lee. Aye.

1908 Ms. Strasser. Ms. Jackson Lee votes aye.

1909 Mr. Cohen?

1910 Mr. Cohen. Aye.

1911 Ms. Strasser. Mr. Cohen votes aye.

1912 Mr. Johnson of Georgia?

1913 Mr. Deutch?

1914 Mr. Deutch. Aye.

1915 Ms. Strasser. Mr. Deutch votes aye.

1916 Ms. Bass?

1917 Ms. Bass. Aye.

1918 Ms. Strasser. Ms. Bass votes aye.

1919 Mr. Richmond?

1920 Mr. Jeffries?

1921 Mr. Jeffries. Aye.

1922 Ms. Strasser. Mr. Jeffries votes aye.

1923 Mr. Cicilline?

1924 Mr. Cicilline. Aye.

1925 Ms. Strasser. Mr. Cicilline votes aye.

1926 Mr. Swalwell?

1927 Mr. Lieu?

1928 Mr. Lieu. Aye.

1929 Ms. Strasser. Mr. Lieu votes aye.

1930 Mr. Raskin?
1931 Mr. Raskin. Aye.
1932 Ms. Strasser. Mr. Raskin votes aye.
1933 Ms. Jayapal?
1934 Ms. Jayapal. Aye.
1935 Ms. Strasser. Ms. Jayapal votes aye.
1936 Mrs. Demings?
1937 Mrs. Demings. Aye.
1938 Ms. Strasser. Mrs. Demings votes aye.
1939 Mr. Correa?
1940 Mr. Correa. Aye.
1941 Ms. Strasser. Mr. Correa votes aye.
1942 Ms. Scanlon?
1943 Ms. Scanlon. Aye.
1944 Ms. Strasser. Ms. Scanlon votes aye.
1945 Ms. Garcia?
1946 Ms. Garcia. Aye.
1947 Ms. Strasser. Ms. Garcia votes aye.
1948 Mr. Neguse?
1949 Mr. Neguse. Aye.
1950 Ms. Strasser. Mr. Neguse votes aye.
1951 Mrs. McBath? Mrs. McBath?
1952 Mrs. McBath. Aye.
1953 Ms. Strasser. Mrs. McBath votes aye.
1954 Mr. Stanton?

1955 Mr. Stanton. Aye.

1956 Ms. Strasser. Mr. Stanton votes aye.

1957 Ms. Dean?

1958 Ms. Dean. Aye.

1959 Ms. Strasser. Ms. Dean votes aye.

1960 Ms. Mucarsel-Powell?

1961 Ms. Escobar?

1962 Ms. Escobar. Aye.

1963 Ms. Strasser. Ms. Escobar votes aye.

1964 Mr. Collins?

1965 Mr. Collins. No.

1966 Ms. Strasser. Mr. Collins votes no.

1967 Mr. Sensenbrenner?

1968 Mr. Sensenbrenner. No.

1969 Ms. Strasser. Mr. Sensenbrenner votes no.

1970 Mr. Chabot?

1971 Mr. Gohmert?

1972 Mr. Gohmert. No.

1973 Ms. Strasser. Mr. Gohmert votes no.

1974 Mr. Jordan?

1975 Mr. Jordan. No.

1976 Ms. Strasser. Mr. Jordan votes no.

1977 Mr. Buck?

1978 Mr. Buck. No.

1979 Ms. Strasser. Mr. Buck votes no.

1980 Mr. Ratcliffe?
1981 Mrs. Roby?
1982 Mrs. Roby. No.
1983 Ms. Strasser. Mrs. Roby votes no.
1984 Mr. Gaetz?
1985 Mr. Johnson of Louisiana?
1986 Mr. Johnson of Louisiana. No.
1987 Ms. Strasser. Mr. Johnson of Louisiana votes no.
1988 Mr. Biggs?
1989 Mr. Biggs. No.
1990 Ms. Strasser. Mr. Biggs votes no.
1991 Mr. McClintock?
1992 Mrs. Lesko?
1993 Mrs. Lesko. No.
1994 Ms. Strasser. Mrs. Lesko votes no.
1995 Mr. Reschenthaler?
1996 Mr. Reschenthaler. No.
1997 Ms. Strasser. Mr. Reschenthaler votes no.
1998 Mr. Cline?
1999 Mr. Cline. No.
2000 Ms. Strasser. Mr. Cline votes no.
2001 Mr. Armstrong?
2002 Mr. Armstrong. No.
2003 Ms. Strasser. Mr. Armstrong votes no.
2004 Mr. Steube?

2005 Mr. Steube. No.

2006 Ms. Strasser. Mr. Steube votes no.

2007 [Pause.]

2008 Chairman Nadler. The gentleman from Florida?

2009 Mr. Gaetz. How am I recorded?

2010 Ms. Strasser. Mr. Gaetz, you are not recorded.

2011 Mr. Gaetz. Aye.

2012 Ms. Strasser. Mr. Gaetz votes aye.

2013 Chairman Nadler. The gentlelady from Florida?

2014 Ms. Mucarsel-Powell. Aye.

2015 Ms. Strasser. Ms. Mucarsel-Powell votes aye.

2016 Chairman Nadler. Anyone else? The gentleman from

2017 Georgia?

2018 Mr. Johnson of Georgia. Aye.

2019 Ms. Strasser. Mr. Johnson of Georgia votes aye.

2020 Chairman Nadler. Has everyone voted who wishes to vote?

2021 [No response.]

2022 Chairman Nadler. The clerk will announce the result.

2023 Mr. Collins. Would the chairman engage the --

2024 Chairman Nadler. The clerk will announce the result.

2025 Mr. Collins. Okay. That is fine.

2026 [Pause.]

2027 Ms. Strasser. Mr. Gaetz, what was your vote?

2028 Mr. Gaetz. Aye.

2029 Ms. Strasser. Mr. Chairman, there are 23 ayes and 13

2030 noes.

2031 Chairman Nadler. The ayes -- the motion on the previous
2032 question is adopted.

2033 The gentleman from --

2034 Mr. Gaetz. Mr. Chairman, as I was on the prevailing
2035 side, I move to reconsider.

2036 Chairman Nadler. The motion -- the gentleman from
2037 Florida -- no, the gentleman from Georgia is recognized.

2038 Mr. Gaetz. Mr. Chairman, I move to reconsider, as I was
2039 on the prevailing side.

2040 Chairman Nadler. I am not recognizing his motion. He
2041 is not recognized.

2042 Mr. Gaetz. How do I get recognized? I couldn't
2043 introduce my amendment. Now I can't even make a motion.

2044 Mr. Collins. Well, there is a two-part colloquy now.
2045 One, why can't we recognize the motion to reconsider?

2046 Chairman Nadler. Because he hasn't been recognized.

2047 Mr. Collins. Okay. So we are just not going to
2048 recognize anybody that has a motion?

2049 Chairman Nadler. He hasn't been recognized. Did you
2050 have a question?

2051 Mr. Collins. I think we are not debating the motion.
2052 But I also have an interesting point here that you and I just
2053 discussed, and I still object to the fact that this is it.
2054 The question is, is, again, we have had two misconstruing of

2055 your motions today. One saying it was concurrent, which it
2056 is clearly not. The other one is this doesn't apply just to
2057 tomorrow. This applies to any hearing in the future in which
2058 it is entitled "Oversight of the U.S. Department of Justice:
2059 Report by Special Counsel Robert Mueller on the Investigation
2060 into Russian Interference in 2016 Presidential Election
2061 Matters and Related Matters."

2062 It relates to any hearing that you will entitle --
2063 Chairman Nadler. I will assure -- I will assure the
2064 gentleman that this motion is intended for tomorrow only.

2065 Mr. Collins. But Mr. Chairman --

2066 Chairman Nadler. If we -- if we intend -- if we intend
2067 to do it again, we will bring another motion.

2068 Mr. Collins. But Mr. Chairman --

2069 Chairman Nadler. The motion -- a reporting quorum being
2070 present, the question is --

2071 Mr. Collins. Mr. Chairman, hang on just a second. We
2072 are in a colloquy.

2073 Chairman Nadler. The question is on the adoption of --

2074 Mr. Collins. We vote on words on paper, not your
2075 affirmation. Words on paper say this is whenever.

2076 Chairman Nadler. Fine. A reporting being present --

2077 Mr. Collins. Do you not even recognize for motions?

2078 Chairman Nadler. A reporting quorum being present, the
2079 question is on the adoption of the motion, pursuant to House

2080 Rule 11, Clause 2(j)(2)(C).

2081 Those in favor, say aye.

2082 Mr. Gaetz. Point of order, Mr. Chairman.

2083 Chairman Nadler. Opposed, no.

2084 Mr. Gaetz. How do I get recognition?

2085 Chairman Nadler. Opposed, no.

2086 Mr. Gaetz. Is there any mechanism --

2087 Chairman Nadler. The ayes have it. The motion --

2088 Mr. Collins. You can't. He will not recognize any

2089 motion from our side.

2090 Chairman Nadler. Does anyone -- no one has asked for a

2091 roll call vote. The ayes have it, and the motion is agreed

2092 to.

2093 Voice. Roll call.

2094 Chairman Nadler. Now you want a roll call. Okay, the

2095 clerk will call the roll.

2096 Ms. Strasser. Mr. Nadler?

2097 Chairman Nadler. Aye.

2098 Ms. Strasser. Mr. Nadler votes aye.

2099 Ms. Lofgren?

2100 Ms. Lofgren. Aye.

2101 Ms. Strasser. Ms. Lofgren votes aye.

2102 Ms. Jackson Lee?

2103 Ms. Jackson Lee. Aye.

2104 Ms. Strasser. Ms. Jackson Lee votes aye.

2105 Mr. Cohen?

2106 Mr. Johnson of Georgia?

2107 Mr. Deutch?

2108 Ms. Bass?

2109 Ms. Bass. Aye.

2110 Ms. Strasser. Ms. Bass votes aye.

2111 Mr. Richmond?

2112 Mr. Jeffries?

2113 Mr. Cicilline?

2114 Mr. Cicilline. Aye.

2115 Ms. Strasser. Mr. Cicilline votes aye.

2116 Mr. Swalwell?

2117 Mr. Lieu?

2118 Mr. Lieu. Aye.

2119 Ms. Strasser. Mr. Lieu votes aye.

2120 Mr. Raskin?

2121 Mr. Raskin. Aye.

2122 Ms. Strasser. Mr. Raskin votes aye.

2123 Ms. Jayapal?

2124 Ms. Jayapal. Aye.

2125 Ms. Strasser. Ms. Jayapal votes aye.

2126 Mrs. Demings?

2127 Mrs. Demings. Aye.

2128 Ms. Strasser. Mrs. Demings votes aye.

2129 Mr. Correa?

2130 Mr. Correa. Aye.

2131 Ms. Strasser. Mr. Correa votes aye.

2132 Ms. Scanlon?

2133 Ms. Scanlon. Aye.

2134 Ms. Strasser. Ms. Scanlon votes aye.

2135 Ms. Garcia?

2136 Ms. Garcia. Aye.

2137 Ms. Strasser. Ms. Garcia votes aye.

2138 Mr. Neguse?

2139 Mr. Neguse. Aye.

2140 Ms. Strasser. Mr. Neguse votes aye.

2141 Mrs. McBath?

2142 Mr. Stanton?

2143 Mr. Stanton. Aye.

2144 Ms. Strasser. Mr. Stanton votes aye.

2145 Ms. Dean?

2146 Ms. Dean. Aye.

2147 Ms. Strasser. Ms. Dean votes aye.

2148 Ms. Mucarsel-Powell?

2149 Ms. Escobar?

2150 Ms. Escobar. Aye.

2151 Ms. Strasser. Ms. Escobar votes aye.

2152 Mr. Collins?

2153 Mr. Collins. No.

2154 Ms. Strasser. Mr. Collins votes no.

2155 Mr. Sensenbrenner?
2156 Mr. Sensenbrenner. No.
2157 Ms. Strasser. Mr. Sensenbrenner votes no.
2158 Mr. Chabot?
2159 Mr. Gohmert?
2160 Mr. Gohmert. No.
2161 Ms. Strasser. Mr. Gohmert votes no.
2162 Mr. Jordan?
2163 Mr. Jordan. No.
2164 Ms. Strasser. Mr. Jordan votes no.
2165 Mr. Buck?
2166 Mr. Buck. No.
2167 Ms. Strasser. Mr. Buck votes no.
2168 Mr. Ratcliffe?
2169 Mrs. Roby?
2170 Mrs. Roby. No.
2171 Ms. Strasser. Mrs. Roby votes no.
2172 Mr. Gaetz?
2173 Mr. Gaetz. No.
2174 Ms. Strasser. Mr. Gates votes no.
2175 Mr. Johnson of Louisiana?
2176 Mr. Johnson of Louisiana. No.
2177 Ms. Strasser. Mr. Johnson of Louisiana votes no.
2178 Mr. Biggs?
2179 Mr. Biggs. No.

2180 Ms. Strasser. Mr. Biggs votes no.
2181 Mr. McClintock?
2182 Mr. McClintock. No.
2183 Ms. Strasser. Mr. McClintock votes no.
2184 Mrs. Lesko?
2185 Mrs. Lesko. No.
2186 Ms. Strasser. Mrs. Lesko votes no.
2187 Mr. Reschenthaler?
2188 Mr. Reschenthaler. No.
2189 Ms. Strasser. Mr. Reschenthaler votes no.
2190 Mr. Cline?
2191 Mr. Cline. No.
2192 Ms. Strasser. Mr. Cline votes no.
2193 Mr. Armstrong?
2194 Mr. Steube?
2195 Mr. Steube. No.
2196 Ms. Strasser. Mr. Steube votes no.
2197 Chairman Nadler. Has everyone voted who wishes to vote?
2198 The gentleman from Tennessee?
2199 Mr. Cohen. Aye.
2200 Ms. Strasser. Mr. Cohen votes aye.
2201 Chairman Nadler. The gentleman from Florida?
2202 Mr. Deutch. Aye.
2203 Ms. Strasser. Mr. Deutch votes aye.
2204 Chairman Nadler. The gentlelady from Florida?

2205 Ms. Mucarsel-Powell. Aye.

2206 Ms. Strasser. Ms. Mucarsel-Powell votes aye.

2207 Chairman Nadler. The gentlelady from Georgia?

2208 Mrs. McBath. Aye.

2209 Ms. Strasser. Mrs. McBath votes aye.

2210 Chairman Nadler. The gentleman from Georgia?

2211 Mr. Johnson of Georgia. Yes.

2212 Ms. Strasser. Mr. Johnson of Georgia votes yes.

2213 Chairman Nadler. Has everyone voted who wishes to vote?

2214 [No response.]

2215 Chairman Nadler. The clerk will report the result.

2216 [Pause.]

2217 Ms. Strasser. Mr. Chairman, there are 21 ayes and 14

2218 noes.

2219 Chairman Nadler. The ayes have it. The motion is

2220 adopted.

2221 Pursuant to notice, I now call up H.R. 5. --

2222 Mr. Buck. Mr. Chairman, I have a parliamentary inquiry

2223 on the previous motion.

2224 Chairman Nadler. -- the Equality Act, for purposes of

2225 markup and move that the committee report the bill favorably

2226 to the House.

2227 Mr. Buck. Mr. Chairman?

2228 Chairman Nadler. The clerk will report the bill.

2229 Mr. Buck. Mr. Chairman, may I make a parliamentary

2230 inquiry?

2231 Ms. Strasser. H.R. 5, to prohibit discrimination --

2232 [Gavel sounding.]

2233 Chairman Nadler. The clerk will report the bill. The
2234 gentleman is not recognized.

2235 Ms. Strasser. H.R. 5, to prohibit discrimination on the
2236 basis of sex, gender identity, and sexual orientation, and
2237 for other purposes.

2238 Chairman Nadler. Without objection, the bill is
2239 considered as read and open for amendment --

2240 Mr. Sensenbrenner. Mr. Chairman, I object.

2241 Chairman Nadler. -- at any point. I will begin by
2242 recognizing myself --

2243 Mr. Sensenbrenner. Mr. Chairman, I object.

2244 Chairman Nadler. -- for an opening statement. Today,
2245 the Judiciary Committee --

2246 Mr. Sensenbrenner. Mr. Chairman, I object to waiving
2247 the reading. You asked for unanimous consent, and I
2248 objected.

2249 Chairman Nadler. You objected after the --

2250 Mr. Sensenbrenner. No, you asked for unanimous consent,
2251 and I objected right away.

2252 Chairman Nadler. I did not hear that, and the objection
2253 is not recognized.

2254 Mr. Sensenbrenner. Well, okay. Well, I objected right

2255 away.

2256 Chairman Nadler. Today, the Judiciary Committee --

2257 Mr. Sensenbrenner. I object.

2258 Chairman Nadler. Okay. Fine. Let it not be said the
2259 minority is not engaging in dilatory tactics for no purpose
2260 at all.

2261 The clerk will read the bill.

2262 Ms. Strasser. H.R. 5 --

2263 Mr. Cicilline. Mr. Chairman, I would like to make --

2264 Mr. Chairman, I would ask unanimous consent we dispense with
2265 the reading of the legislation so we can get on to the
2266 important work --

2267 Mr. Sensenbrenner. Mr. Chairman, I object.

2268 Mr. Cicilline. Mr. Chairman, I make a motion that we
2269 suspend with the reading of the legislation --

2270 Mr. Sensenbrenner. Mr. Chairman, a point of order.

2271 That is not a valid motion. If there is objection, there has
2272 to be a reading of the bill.

2273 Chairman Nadler. The gentleman -- the clerk will read
2274 the bill.

2275 Ms. Strasser. H.R. 5, to prohibit discrimination on the
2276 basis of sex, gender identity, and sexual orientation --

2277 Chairman Nadler. Let me -- before the clerk reads the
2278 bill, let me make a statement.

2279 The bill is 27 pages long. We know what is in it. The

2280 purpose of the gentleman's objection is simply to waste time.
2281 Anything I may do to hasten the meeting later will be fully
2282 justified by this.

2283 The clerk will read the bill.

2284 Ms. Strasser. To prohibit discrimination on the basis
2285 of sex, gender identity, and sexual orientation, and for
2286 other purposes.

2287 Be it enacted by the Senate and House of Representatives
2288 of the United States of America in Congress assembled,

2289 SECTION 1. SHORT TITLE.

2290 This Act may be cited as the "Equality Act."

2291 SECTION 2. FINDINGS AND PURPOSE.

2292 (a) Findings. Congress finds the following:

2293 (1) Discrimination can occur on the basis of the sex,
2294 sexual orientation, gender identity, or pregnancy,
2295 childbirth, or a related medical condition of an individual,
2296 as well as because of sex-based stereotypes. Each of these
2297 factors alone can serve as the basis for discrimination, and
2298 each is a form of sex discrimination.

2299 (2) A single instance of discrimination may have more
2300 than one basis. For example, discrimination against a
2301 married same-sex couple could be based on the sex stereotype
2302 that marriage should only be between heterosexual couples,
2303 the sexual orientation of the two individuals in the couple,
2304 or both. Discrimination against a pregnant lesbian could be

2305 based on her sex, her sexual orientation, her pregnancy, or
2306 on the basis of multiple factors.

2307 (3) Lesbian, gay, bisexual, and transgender, "referred
2308 to as LGBT," people commonly experience discrimination in
2309 securing access to public accommodations, including
2310 restaurants, senior centers, stores, places of or
2311 establishments that provide entertainment, health care
2312 facilities, shelters, government offices, youth service
2313 providers, including adoption and foster care providers, and
2314 transportation.

2315 Forms of discrimination include the exclusion and denial
2316 of entry, unequal or unfair treatment, harassment, and
2317 violence. This discrimination prevents the full
2318 participation of LGBT people in society and disrupts the free
2319 flow of commerce.

2320 (4) Women also have faced discrimination in many
2321 establishments such as stores and restaurants, and places or
2322 establishments that provide other goods or services, such as
2323 entertainment or transportation, including sexual harassment,
2324 differential pricing for substantially similar products and
2325 services, and denial of services because they are pregnant or
2326 breastfeeding.

2327 (5) Many employers already and continue to take
2328 proactive steps, beyond those required by some States and
2329 localities, to ensure they are fostering positive and

2330 respectful cultures for all employees. Many places of public
2331 accommodation also recognize the economic imperative to offer
2332 goods and services to as many consumers as possible.

2333 (6) Regular and ongoing discrimination against LGBT
2334 people, as well as women, in accessing public accommodations
2335 contributes to negative social and economic outcomes, and in
2336 the case of public accommodations operated by State and local
2337 governments, abridges individuals' constitutional rights.

2338 (7) The discredited practice known as "conversion
2339 therapy" is a form of discrimination that harms LGBT people
2340 by undermining individuals' sense of self-worth, increasing
2341 suicide ideation and substance abuse, exacerbating family
2342 conflict, and contributing to second class status.

2343 (8) Both LGBT people and women face widespread
2344 discrimination in employment and various services, including
2345 by entities that receive Federal financial assistance. Such
2346 discrimination --

2347 (A) is particularly troubling and inappropriate for
2348 programs and services funded wholly or in part by the Federal
2349 Government;

2350 (B) undermines national progress toward equal treatment
2351 regardless of sex, sexual orientation, or gender identity;
2352 and

2353 (C) is inconsistent with the constitutional principle of
2354 equal protection under the Fourteenth Amendment to the

2355 Constitution of the United States.

2356 (9) Federal courts have widely recognized that, in
2357 enacting the Civil Rights Act of 1964, Congress validly
2358 invoked its power under the Fourteenth Amendment to provide a
2359 full range of remedies in response to persistent, widespread,
2360 and pervasive discrimination by both private and Government
2361 actors.

2362 (10) Discrimination by State and local governments on
2363 the basis of sexual orientation or gender identity in
2364 employment, housing, and public accommodations, and in
2365 programs and activities receiving Federal financial
2366 assistance, violates the Equal Protection Clause of the
2367 Fourteenth Amendment to the Constitution of the United
2368 States. In many circumstances, such discrimination also
2369 violates other constitutional rights such as those of liberty
2370 and privacy under the due process clause of the Fourteenth
2371 Amendment.

2372 (11) Individuals who are LGBT, or are perceived to be
2373 LGBT, have been subjected to a history and pattern of
2374 persistent, widespread, and pervasive discrimination on the
2375 bases of sexual orientation and gender identity by both
2376 private sector and Federal, State, and local government
2377 actors, including in employment, housing, and public
2378 accommodations, and in programs and activities receiving
2379 Federal financial assistance. An explicit and comprehensive

2380 national solution is needed to address such discrimination,
2381 including the full range of remedies available under the
2382 Civil Rights Act of 1964.

2383 (12) Numerous provisions of Federal law expressly
2384 prohibit discrimination on the basis of sex, and Federal
2385 agencies and courts have correctly interpreted these
2386 prohibitions on sex discrimination to include discrimination
2387 based on sexual orientation, gender identity, and sex
2388 stereotypes. In particular, the Equal Employment Opportunity
2389 Commission correctly interpreted Title VII of the Civil
2390 Rights Act of 1964 in *Macy v. Holder*, *Baldwin v. Foxx*, and
2391 *Lusardi v. McHugh*.

2392 (13) The absence of explicit prohibitions of
2393 discrimination on the basis of sexual orientation and gender
2394 identity under Federal statutory law, as well as the
2395 existence of legislative proposals that would have provided
2396 such explicit prohibitions, has led some courts to conclude
2397 incorrectly that current Federal laws prohibiting sex
2398 discrimination do not prohibit discrimination on the basis of
2399 sexual orientation and gender identity. It has also created
2400 uncertainty for employers and other entities covered by
2401 Federal nondiscrimination laws and caused unnecessary
2402 hardships for LGBT individuals.

2403 (14) LGBT people often face discrimination when seeking
2404 to rent or purchase housing, as well as in every other aspect

2405 of obtaining and maintaining housing. LGBT people in same-
2406 sex relationships are often discriminated against when two
2407 names associated with one gender appear on a housing
2408 application, and transgender people often encounter
2409 discrimination when credit checks or inquiries reveal a
2410 former name.

2411 (15) National surveys, including a study commissioned by
2412 the Department of Housing and Urban Development, show that
2413 housing discrimination against LGBT people is very prevalent.
2414 For instance, when same-sex couples inquire about housing
2415 that --

2416 Mr. Sensenbrenner. Mr. Chairman? Mr. Chairman, I make
2417 a point of order. Quorum is not present.

2418 Ms. Strasser. -- is available for rent, they are less
2419 likely to receive --

2420 Mr. Sensenbrenner. Mr. Chairman, we need to have a
2421 working quorum to mark a bill up. I make a point of order
2422 that a quorum is not present.

2423 Mr. Cicilline. [Presiding] The clerk may continue.

2424 Ms. Strasser. -- positive responses from landlords. A
2425 national matched-pair testing investigation --

2426 Mr. Sensenbrenner. I make a point of order that a
2427 quorum is not present.

2428 Mr. Cicilline. Point of order is not appropriate at
2429 this time. You requested the reading of the bill. The clerk

2430 will continue.

2431 Mr. Sensenbrenner. I make a point of order.

2432 Mr. Cicilline. A point of order is not recognized.

2433 Mr. Sensenbrenner. I make a point of no quorum.

2434 Mr. Cicilline. You may proceed.

2435 Ms. Strasser. -- found that nearly one-half of same-sex

2436 couples --

2437 Mr. Sensenbrenner. I appeal the decision of the chair.

2438 Ms. Strasser. -- face adverse, differential treatment

2439 when seeking elder house.

2440 Mr. Sensenbrenner. You overruled my point of order. I

2441 appeal the decision of the chair.

2442 Mr. Cicilline. I did not recognize you for a point of

2443 order. The clerk may continue --

2444 Mr. Sensenbrenner. Mr. Chairman, a point of order is in

2445 order --

2446 [Gavel sounding.]

2447 Ms. Strasser. According to other studies, transgender

2448 people --

2449 Mr. Sensenbrenner. -- at any time.

2450 Mr. Cicilline. The clerk --

2451 Mr. Sensenbrenner. There is not a quorum present for

2452 consideration of this bill.

2453 Mr. Cicilline. The clerk will continue.

2454 Ms. Strasser. -- have half the homeownership rate of

2455 non-transgender people --

2456 Mr. Sensenbrenner. You can't ignore a point of order.

2457 Ms. Strasser. -- and about one in five transgender

2458 people experience homelessness.

2459 Mr. Gaetz. Mr. Chairman, maybe you should consult the

2460 parliamentarian.

2461 Mr. Cicilline. The clerk may continue.

2462 Mr. Sensenbrenner. I make a point of no quorum.

2463 Ms. Strasser. (16) As a result of the absence of

2464 explicit prohibitions against discrimination on the basis of

2465 sexual orientation and gender identity, credit applicants who

2466 are LGBT, or perceived to be LGBT, have unequal opportunities

2467 to establish credit. LGBT people can experience being denied

2468 a mortgage, credit card, student loan, or many other types of

2469 credit simply because of their sexual orientation or gender

2470 identity.

2471 (17) Numerous studies demonstrate that LGBT people,

2472 especially transgender people and women, are economically

2473 disadvantaged and at a higher risk for poverty compared with

2474 other groups of people. For example, older women in same-sex

2475 couples have twice the poverty rate of older different-sex

2476 couples.

2477 (18) The right to an impartial jury of one's peers and

2478 the reciprocal right to jury service are fundamental to the

2479 free and democratic system of justice in the United States

2480 and are based in the Bill of Rights. There is, however, an
2481 unfortunate and long-documented history in the United States
2482 of attorneys discriminating against LGBT individuals, or
2483 those perceived to be LGBT, in jury selection. Failure to
2484 bar peremptory challenges based on the actual or perceived
2485 sexual orientation or gender identity of an individual not
2486 only erodes a fundamental right, duty, and obligation of
2487 being a citizen of the United States, but also unfairly
2488 creates a second class of citizenship for LGBT victims,
2489 witnesses, plaintiffs, and defendants.

2490 (19) Numerous studies document the shortage of qualified
2491 and available homes for the 437,000 youth in the child
2492 welfare system and the negative outcomes for the many youth
2493 who live in group care as opposed to a loving home or who age
2494 out without a permanent family. Although same-sex couples
2495 are seven times more likely to foster or adopt than their
2496 different-sex counterparts, many child placing agencies
2497 refuse to serve same-sex couples and LGBT individuals. This
2498 has resulted in a reduction of the pool of qualified and
2499 available homes for youth in the child welfare system who
2500 need placement on a temporary or permanent basis. Barring
2501 discrimination in foster care and adoption will increase the
2502 number of homes available to foster children waiting for
2503 foster and adoptive families.

2504 (20) LGBT youth are overrepresented in the foster care

2505 system by at least a factor of two and report twice the rate
2506 of poor treatment while in care compared to their non-LGBT
2507 counterparts. LGBT youth in foster care have a higher
2508 average number of placements, higher likelihood of living in
2509 a group home, and higher rates of hospitalization for
2510 emotional reasons and juvenile justice involvement than their
2511 non-LGBT peers because of the high level of bias and
2512 discrimination that they face and the difficulty of finding
2513 affirming foster placements.

2514 Further, due to their physical distance from friends and
2515 family, traumatic experiences, and potentially unstable
2516 living situations, all youth involved with child welfare are
2517 at risk for being targeted by traffickers seeking to exploit
2518 children. Barring discrimination in child welfare services
2519 will ensure improved treatment and outcomes for LGBT foster
2520 children.

2521 (b) Purpose. It is the purpose of this act to expand as
2522 well as clarify, confirm, and create greater consistency in
2523 the protections and remedies against discrimination on the
2524 basis of all covered characteristics and to provide guidance
2525 and notice to individuals, organizations, corporations, and
2526 agencies regarding their obligations under the law.

2527 SECTION 3. PUBLIC ACCOMMODATIONS.

2528 (a) Prohibition on Discrimination or Segregation in
2529 Public Accommodations. Section 201 of the Civil Rights Act

2530 of 1964 (42 U.S.C. 2000a) is amended --

2531 (1) in subsection (a), by inserting "sex (including
2532 sexual orientation and gender identity)," before "or national
2533 origin"; and

2534 (2) in subsection (b) --

2535 (A) in paragraph (3), by striking "stadium" and all that
2536 follows and inserting "stadium or other place of or
2537 establishment that provides exhibition, entertainment,
2538 recreation, exercise, amusement, gathering, or display;"

2539 (B) by redesignating paragraph (4) as paragraph 6); and

2540 (C) by inserting after paragraph (3) the following:

2541 "(4) any establishment that provides a good, service, or
2542 program, including a store, shopping center, online retailer
2543 or service provider, salon, bank, gas station, food bank,
2544 service or care center, shelter, travel agency, or funeral
2545 parlor, or establishment that provides health care,
2546 accounting, or legal services;

2547 "(5) any train service, bus service, car service, taxi
2548 service, airline service, station, depot, or other place of
2549 or establishment that provides transportation service; and"

2550 (b) Prohibition on Discrimination or Segregation Under
2551 Law. Section 202 of such Act (42 U.S.C. 2000a-1) is amended
2552 by inserting "sex (including sexual orientation and gender
2553 identity)," before "or national origin".

2554 (c) Rule of Construction. Title II of such Act (42

2555 U.S.C. 2000a et seq.) is amended by adding at the end the
2556 following:

2557 "SEC. 208. RULE OF CONSTRUCTION.

2558 "A reference in this title to an establishment --

2559 "(1) shall be construed to include an individual whose
2560 operations affect commerce and who is a provider of a good,
2561 service, or program; and

2562 "(2) shall not be construed to be limited to a physical
2563 facility or place.".

2564 SECTION 4. DESEGREGATION OF PUBLIC FACILITIES.

2565 Section 301(a) of the Civil Rights Act of 1964 (42
2566 U.S.C. 2000b(a)) is amended by inserting "sex (including
2567 sexual orientation and gender identity)," before "or national
2568 origin".

2569 SECTION 5. DESEGREGATION OF PUBLIC EDUCATION.

2570 (a) Definitions. Section 401(b) of the Civil Rights Act
2571 of 1964 (42 U.S.C. 2000c(b)) is amended by inserting
2572 "(including sexual orientation and gender identity)," before
2573 "or national origin".

2574 (b) Civil Actions by the Attorney General. Section 407
2575 of such Act (42 U.S.C. 2000c-6) is amended, in subsection
2576 (a) (2), by inserting "(including sexual orientation and
2577 gender identity)," before "or national origin".

2578 (c) Classification and Assignment. Section 410 of such
2579 Act (42 U.S.C. 2000c-9) is amended by inserting "(including

2580 sexual orientation and gender identity)," before "or national
2581 origin".

2582 SECTION 6. FEDERAL FUNDING.

2583 Section 601 of the Civil Rights Act of 1964 (42 U.S.C.
2584 2000d) is amended by inserting "sex (including sexual
2585 orientation and gender identity)," before "or national
2586 origin".

2587 SECTION 7. EMPLOYMENT.

2588 (a) Rules of Construction. Title VII of the Civil
2589 Rights Act of 1964 is amended by inserting after section 701
2590 (42 U.S.C. 2000e) the following:

2591 "SEC. 701A. RULES OF CONSTRUCTION.

2592 "Section 1106 shall apply to this title except that for
2593 purposes of that application, a reference in that section to
2594 an 'unlawful practice' shall be considered to be a reference
2595 to an 'unlawful employment practice'.".

2596 (b) Unlawful Employment Practices. Section 703 of the
2597 Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended --

2598 (1) in the section header, by striking "sex" and
2599 inserting "sex (including sexual orientation and gender
2600 identity),";

2601 (2) except in subsection (e), by striking "sex," each
2602 place it appears and inserting "sex (including sexual
2603 orientation and gender identity),"; and

2604 (3) in subsection (e) (1), by striking "enterprise," and

2605 inserting "enterprise, if, in a situation in which sex is a
2606 bona fide occupational qualification, individuals are
2607 recognized as qualified in accordance with their gender
2608 identity,".

2609 (c) Other Unlawful Employment Practices. Section 704(b)
2610 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-3(b)) is
2611 amended --

2612 (1) by striking "sex," the first place it appears and
2613 inserting "sex (including sexual orientation and gender
2614 identity),"; and

2615 (2) by striking "employment." and inserting "employment,
2616 if, in a situation in which sex is a bona fide occupational
2617 qualification, individuals are recognized as qualified in
2618 accordance with their gender identity.".

2619 (d) Claims. Section 706(g)(2)(A) of the Civil Rights
2620 Act of 1964 (2000e-5(g)(2)(A)) is amended by striking "sex,"
2621 and inserting "sex (including sexual orientation and gender
2622 identity),".

2623 (e) Employment by Federal Government. Section 717 of
2624 the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended
2625 --

2626 (1) in subsection (a), by striking "sex," and inserting
2627 "sex (including sexual orientation and gender identity),";
2628 and

2629 (2) in subsection (c), by striking "sex" and inserting

2630 "sex (including sexual orientation and gender identity),".

2631 (f) Government Employee Rights Act of 1991. The
2632 Government Employee Rights Act of 1991 (42 U.S.C. 2000e-16a
2633 et seq.) is amended --

2634 (1) in section 301(b), by striking "sex," and inserting
2635 "sex (including sexual orientation and gender identity),";

2636 (2) in section 302(a)(1), by striking "sex," and
2637 inserting "sex (including sexual orientation and gender
2638 identity),"; and

2639 (3) by adding at the end the following:

2640 "SEC. 305. RULES OF CONSTRUCTION AND CLAIMS.

2641 "Sections 1101(b), 1106, and 1107 of the Civil Rights
2642 Act of 1964 shall apply to this title except that for
2643 purposes of that application, a reference in that section
2644 1106 to 'race, color, religion, sex (including sexual
2645 orientation and gender identity), or national origin' shall
2646 be considered to be a reference to 'race, color, religion,
2647 sex, sexual orientation, gender identity, national origin,
2648 age, or disability'.".

2649 (g) Congressional Accountability Act of 1995. The
2650 Congressional Accountability Act of 1995 (2 U.S.C. 1301 et
2651 seq.) is amended --

2652 (1) in section 201(a)(1) (2 U.S.C. 1311(a)(1)) by
2653 inserting "(including sexual orientation and gender
2654 identity)," before "or national origin,"; and

2655 (2) by adding at the end of title II (42 U.S.C. 1311 et
2656 seq.) the following:

2657 "SEC. 208. RULES OF CONSTRUCTION AND CLAIMS.

2658 "Sections 1101(b), 1106, and 1107 of the Civil Rights
2659 Act of 1964 shall apply to section 201 (and remedial
2660 provisions of this Act related to section 201) except that
2661 for purposes of that application, a reference in that section
2662 1106 to 'race, color, religion, sex (including sexual
2663 orientation and gender identity), or national origin' shall
2664 be considered to be a reference to 'race, color, religion,
2665 sex (including sexual orientation and gender identity),
2666 national origin, age, or disability'."

2667 (h) Civil Service Reform Act of 1978. Chapter 23 of
2668 title 5, United States Code, is amended --

2669 (1) in section 2301(b)(2), by striking "sex," and
2670 inserting "sex (including sexual orientation and gender
2671 identity),";

2672 (2) in section 2302 --

2673 (A) in subsection (b)(1)(A), by inserting "(including
2674 sexual orientation and gender identity)," before "or national
2675 origin,"; and

2676 (B) in subsection (d)(1), by inserting "(including
2677 sexual orientation and gender identity)," before "or national
2678 origin,"; and

2679 (3) by adding at the end the following:

2680 "SEC. 2307. RULES OF CONSTRUCTION AND CLAIMS.

2681 "Sections 1101(b), 1106, and 1107 of the Civil Rights
2682 Act of 1964 shall apply to this chapter (and remedial
2683 provisions of this title related to this chapter) except that
2684 for purposes of that application, a reference in that section
2685 1106 to 'race, color, religion, sex (including sexual
2686 orientation and gender identity), or national origin' shall
2687 be considered to be a reference to 'race, color, religion,
2688 sex (including sexual orientation and gender identity),
2689 national origin, age, a handicapping condition, marital
2690 status, or political affiliation'."

2691 SECTION 8. INTERVENTION.

2692 Section 902 of the Civil Rights Act of 1964 (42 U.S.C.
2693 2000h-2) is amended by inserting "(including sexual
2694 orientation and gender identity)," before "or national
2695 origin,".

2696 SECTION 9. MISCELLANEOUS.

2697 Title XI of the Civil Rights Act of 1964 is amended --
2698 (1) by redesignating sections 1101 through 1104 (42
2699 U.S.C. 2000h et seq.) and sections 1105 and 1106 (42 U.S.C.
2700 2000h-5, 2000h-6) as sections 1102 through 1105 and sections
2701 1108 and 1109, respectively;

2702 (2) by inserting after the title heading the following:

2703 "SEC. 1101. DEFINITIONS AND RULES.

2704 "(a) Definitions. In titles II, III, IV, VI, VII, and

2705 IX (referred to individually in sections 1106 and 1107 as a
2706 "covered title"):

2707 "(1) Race; color; religion; sex; sexual orientation;
2708 gender identity; national origin. The term 'race', 'color',
2709 'religion', 'sex' (including 'sexual orientation' and 'gender
2710 identity'), or 'national origin', used with respect to an
2711 individual, includes --

2712 "(A) the race, color, religion, sex (including sexual
2713 orientation and gender identity), or national origin,
2714 respectively, of another person with whom the individual is
2715 associated or has been associated; and

2716 "(B) a perception or belief, even if inaccurate,
2717 concerning the race, color, religion, sex (including sexual
2718 orientation and gender identity), or national origin,
2719 respectively, of the individual.

2720 "(2) Gender identity. The term 'gender identity' means
2721 the gender-related identity, appearance, mannerisms, or other
2722 gender-related characteristics of an individual, regardless
2723 of the individual's designated sex at birth.

2724 "(3) Including. The term 'including' means including,
2725 but not limited to, consistent with the term's standard
2726 meaning in Federal law.

2727 "(4) Sex. The term 'sex' includes --

2728 "(A) a sex stereotype;

2729 "(B) pregnancy, childbirth, or a related medical

2730 condition;

2731 "(C) sexual orientation or gender identity; and

2732 "(D) sex characteristics, including intersex traits.

2733 "(5) Sexual orientation. The term 'sexual orientation'

2734 means homosexuality, heterosexuality, or bisexuality.

2735 "(b) Rules. In a covered title referred to in

2736 subsection (a) --

2737 "(1) (with respect to sex) pregnancy, childbirth, or a

2738 related medical condition shall not receive less favorable

2739 treatment than other physical conditions; and

2740 "(2) (with respect to gender identity) an individual

2741 shall not be denied access to a shared facility, including a

2742 restroom, a locker room, and a dressing room, that is in

2743 accordance with the individual's gender identity."; and

2744 (3) by inserting after section 1105 the following:

2745 "SEC. 1106. RULES OF CONSTRUCTION.

2746 "(a) Sex. Nothing in section 1101 or the provisions of

2747 a covered title incorporating a term defined or a rule

2748 specified in that section shall be construed --

2749 "(1) to limit the protection against an unlawful

2750 practice on the basis of pregnancy, childbirth, or a related

2751 medical condition provided by section 701(k); or

2752 "(2) to limit the protection against an unlawful

2753 practice on the basis of sex available under any provision of

2754 Federal law other than that covered title, prohibiting a

2755 practice on the basis of sex.

2756 "(b) Claims and Remedies Not Precluded. Nothing in
2757 section 1101 or a covered title shall be construed to limit
2758 the claims or remedies available to any individual for an
2759 unlawful practice on the basis of race, color, religion, sex
2760 (including sexual orientation and gender identity), or
2761 national origin including claims brought pursuant to section
2762 1979 or 1980 of the Revised Statutes (42 U.S.C. 1983, 1985)
2763 or any other law, including a Federal law amended by the
2764 Equality Act, regulation, or policy.

2765 "(c) No Negative Inference. Nothing in section 1101 or
2766 a covered title shall be construed to support any inference
2767 that any Federal law prohibiting a practice on the basis of
2768 sex does not prohibit discrimination on the basis of
2769 pregnancy, childbirth, or a related medical condition, sexual
2770 orientation, gender identity, or a sex stereotype.

2771 "SEC. 1107. CLAIMS.

2772 "The Religious Freedom Restoration Act of 1993 (42
2773 U.S.C. 2000bb et seq.) shall not provide a claim concerning,
2774 or a defense to a claim under, a covered title, or provide a
2775 basis for challenging the application or enforcement of a
2776 covered title."

2777 SECTION 10. HOUSING.

2778 (a) Fair Housing Act. The Fair Housing Act (42 U.S.C.
2779 3601 et seq.) is amended --

2780 (1) in section 802 (42 U.S.C. 3602), by adding at the
2781 end the following:

2782 "(p) 'Gender identity', 'sex', and 'sexual orientation'
2783 have the meanings given those terms in section 1101(a) of the
2784 Civil Rights Act of 1964.

2785 "(q) 'Race', 'color', 'religion', 'sex' (including
2786 'sexual orientation' and 'gender identity'), 'handicap',
2787 'familial status', or 'national origin', used with respect to
2788 an individual, includes --

2789 "(1) the race, color, religion, sex (including sexual
2790 orientation and gender identity), handicap, familial status,
2791 or national origin, respectively, of another person with whom
2792 the individual is associated or has been associated; and

2793 "(2) a perception or belief, even if inaccurate,
2794 concerning the race, color, religion, sex (including sexual
2795 orientation and gender identity), handicap, familial status,
2796 or national origin, respectively, of the individual.";

2797 (2) in section 804, by inserting "(including sexual
2798 orientation and gender identity)," after "sex," each place
2799 that term appears;

2800 (3) in section 805, by inserting "(including sexual
2801 orientation and gender identity)," after "sex," each place
2802 that term appears;

2803 (4) in section 806, by inserting "(including sexual
2804 orientation and gender identity)," after "sex,";

2805 (5) in section 808(e)(6), by inserting "(including
2806 sexual orientation and gender identity)," after "sex,"; and

2807 (6) by adding at the end the following:

2808 "SEC. 821. RULES OF CONSTRUCTION.

2809 "Sections 1101(b) and 1106 of the Civil Rights Act of
2810 1964 shall apply to this title and section 901, except that
2811 for purposes of that application, a reference in that section
2812 1101(b) or 1106 to a 'covered title' shall be considered a
2813 reference to 'this title and section 901'.

2814 "SEC. 822. CLAIMS.

2815 "Section 1107 of the Civil Rights Act of 1964 shall
2816 apply to this title and section 901, except that for purposes
2817 of that application, a reference in that section 1107 to a
2818 'covered title' shall be considered a reference to 'this
2819 title and section 901'."

2820 (b) Prevention of Intimidation in Fair Housing Cases.
2821 Section 901 of the Civil Rights Act of 1968 (42 U.S.C. 3631)
2822 is amended by inserting "(including sexual orientation (as
2823 such term is defined in section 802 of this Act) and gender
2824 identity (as such term is defined in section 802 of this
2825 Act))," after "sex," each place that term appears.

2826 SECTION 11. EQUAL CREDIT OPPORTUNITY.

2827 (a) Prohibited Discrimination. Section 701(a)(1) of the
2828 Equal Credit Opportunity Act (15 U.S.C. 1691(a)(1)) is
2829 amended by inserting "(including sexual orientation and

2830 gender identity)," after "sex".

2831 (b) Definitions. Section 702 of the Equal Credit
2832 Opportunity Act (15 U.S.C. 1691a) is amended --

2833 (1) by redesignating subsections (f) and (g) as
2834 subsections (h) and (i), respectively;

2835 (2) by inserting after subsection (e) the following:

2836 "(f) The terms 'gender identity', 'sex', and 'sexual
2837 orientation' have the meanings given those terms in section
2838 1101(a) of the Civil Rights Act of 1964.

2839 "(g) The term 'race', 'color', 'religion', 'national
2840 origin', 'sex' (including 'sexual orientation' and 'gender
2841 identity'), 'marital status', or 'age', used with respect to
2842 an individual, includes --

2843 "(1) the race, color, religion, national origin, sex
2844 (including sexual orientation and gender identity), marital
2845 status, or age, respectively, of another person with whom the
2846 individual is associated or has been associated; and

2847 "(2) a perception or belief, even if inaccurate,
2848 concerning the race, color, religion, national origin, sex
2849 (including sexual orientation and gender identity), marital
2850 status, or age, respectively, of the individual."; and

2851 (3) by adding at the end the following:

2852 "(j) Sections 1101(b) and 1106 of the Civil Rights Act
2853 of 1964 shall apply to this title, except that for purposes
2854 of that application --

2855 "(1) a reference in those sections to a 'covered title'
2856 shall be considered a reference to 'this title'; and

2857 "(2) paragraph (1) of such section 1101(b) shall apply
2858 with respect to all aspects of a credit transaction.".

2859 (c) Relation to State Laws. Section 705(a) of the Equal
2860 Credit Opportunity Act (15 U.S.C. 1691d(a)) is amended by
2861 inserting "(including sexual orientation and gender
2862 identity)," after "sex".

2863 (d) Civil Liability. Section 706 of the Equal Credit
2864 Opportunity Act (15 U.S.C. 1691e) is amended by adding at the
2865 end the following:

2866 "(1) Section 1107 of the Civil Rights Act of 1964 shall
2867 apply to this title, except that for purposes of that
2868 application, a reference in that section to a 'covered title'
2869 shall be considered a reference to 'this title'.".

2870 SECTION 12. JURIES.

2871 (a) In General. Chapter 121 of title 28, United States
2872 Code, is amended --

2873 (1) in section 1862, by inserting "(including sexual
2874 orientation and gender identity)," after "sex,";

2875 (2) in section 1867(e), in the second sentence, by
2876 inserting "(including sexual orientation and gender
2877 identity)," after "sex,";

2878 (3) in section 1869 --

2879 (A) in subsection (j), by striking "and" at the end;

2880 (B) in subsection (k), by striking the period at the end
2881 and inserting a semicolon; and

2882 (C) by adding at the end the following:

2883 "(1) 'gender identity', 'sex', and 'sexual orientation'
2884 have the meanings given such terms under section 1101(a) of
2885 the Civil Rights Act of 1964; and

2886 "(m) 'race', 'color', 'religion', 'sex' (including
2887 'sexual orientation' and 'gender identity'), 'economic
2888 status', or 'national origin', used with respect to an
2889 individual, includes --

2890 "(1) the race, color, religion, sex (including sexual
2891 orientation and gender identity), economic status, or
2892 national origin, respectively, of another person with whom
2893 the individual is associated or has been associated; and

2894 "(2) a perception or belief, even if inaccurate,
2895 concerning the race, color, religion, sex (including sexual
2896 orientation and gender identity), economic status, or
2897 national origin, respectively, of the individual."; and

2898 (4) by adding at the end the following:

2899 "Sec. 1879. Rules of construction and claims.

2900 "Sections 1101(b), 1106, and 1107 of the Civil Rights
2901 Act of 1964 shall apply to this chapter, except that for
2902 purposes of that application, a reference in those sections
2903 to a 'covered title' shall be considered a reference to 'this
2904 chapter'."

2905 (b) Technical and Conforming Amendment. The table of
2906 sections for chapter 121 of title 28, United States Code, is
2907 amended by adding at the end the following:

2908 "1879. Rules of construction and claims."

2909 Chairman Nadler. [presiding] The markup will now stand
2910 in recess until after votes on the floor.

2911 [Recess.]

2912 Chairman Nadler. The Judiciary Committee will come back
2913 to order.

2914 When we recessed, we had finished reading the bill, H.R.
2915 5, the Equality Act. I will now begin by recognizing myself
2916 for an opening statement.

2917 Today, the Judiciary Committee considers H.R. 5, the
2918 Equality Act. This is long overdue legislation that will
2919 explicitly prohibit discrimination against lesbian, gay,
2920 bisexual, transgender, and gender nonconforming Americans, as
2921 well as strengthen nondiscrimination protections for women
2922 and others.

2923 We have endeavored as a nation to ensure that everyone
2924 is able to participate fully in the American way of life.
2925 Discrimination goes against the very structure of our
2926 democracy and our basic sense of fairness by deeming some of
2927 those among us as less deserving of respect, less equal and,
2928 frankly, less human. It is time that we make clear that we
2929 support equal rights and equal worth of all people, including

2930 every LGBTQ person in this country.

2931 As part of our hearing last month on this legislation,
2932 we heard about the enduring, painful discrimination faced by
2933 LGBTQ people in this country, including families being denied
2934 medical care and individuals being fired simply for being
2935 transgender. These stories reflect only a fraction of the
2936 humiliation and loss of dignity faced by LGBT people when
2937 they encounter discrimination.

2938 Much of the history of the United States has been a
2939 history of expanding the definition of who is understood to
2940 be included when the Declaration of Independence says all men
2941 are created equal. When these words were first written, the
2942 phrase did not include black and Latino men, it did not
2943 include Native Americans, it did not include women, and it
2944 certainly did not include LGBTQ individuals.

2945 At this moment, we have an opportunity to continue our
2946 march toward justice, to enshrine in our nation's laws
2947 protections for marginalized communities to ensure that
2948 everyone can fully participate in key areas of life, and to
2949 provide them recourse in the face of discrimination.

2950 The Equality Act will do so by amending our existing
2951 statutes, namely, the Civil Rights Act of 1964, the Fair
2952 Housing Act, the Equal Credit Opportunity Act, the Jury
2953 Selection and Services Act, and several laws regarding
2954 Federal employment by either adding sex, including sexual

2955 orientation and gender identity as a protected
2956 characteristic, or where sex is already included as a
2957 protected characteristic, by explicitly clarifying that sex
2958 discrimination includes discrimination on the basis of sexual
2959 orientation or gender identity.

2960 It will also expand the Civil Rights Act of 1964 to
2961 clarify the definition of public accommodations to ensure
2962 that a broader range of establishments, including retail
2963 stores and services such as banking, are covered by its
2964 protections.

2965 It is time that the Federal Government recognized that
2966 discrimination in any form is wrong and that we should move
2967 forward with these commonsense protections that simply build
2968 on existing statutes.

2969 I understand there are concerns about how this bill
2970 would interact with individual religious freedom. One of the
2971 reasons the Equality Act amends the Civil Rights Act and
2972 other civil rights laws is to maintain the same critical
2973 balance between the government's compelling interest in
2974 eradicating discrimination and in supporting religious
2975 liberty that has been struck in our nation's civil rights
2976 laws and upheld by the courts for more than five decades.

2977 Religious organizations and institutions will still have
2978 the ability under the Equality Act, as they do now, to decide
2979 who is a member of their faith. Priests, rabbis, and imams

2980 will still be able to decide what religious services to
2981 provide and to whom. Just as houses of worship retain the
2982 ability to determine which couples they will marry post-
2983 *Obergefell*, houses of worship and affiliated religious
2984 institutions under the Equality Act will still be free to
2985 decline membership, admittance, or services to anyone they
2986 wish.

2987 The Equality Act mandates only that businesses and
2988 services offered to the general public are offered to the
2989 entire public without discrimination. If you offer a
2990 catering hall for rent, enroll students or provide medical
2991 services to the public without regard to religion, you must
2992 do so for all. You cannot single out individual races,
2993 religions, or, as made explicit by the Equality Act, LGBTQ
2994 people for exclusion.

2995 Religion is no excuse for discrimination in the public
2996 sphere, as we have long recognized when it comes to race,
2997 color, sex, and national origin, and it should not be an
2998 excuse when it comes to sexual orientation or gender
2999 identity.

3000 That LGBTQ people are included when we speak about the
3001 general public, if they are part of our American collective
3002 is really the heart of the issue before us. Several states
3003 and localities already provide certain important protections
3004 for LGBTQ individuals, and we have not seen any of the parade

3005 of horrors that I expect to hear from the other side today
3006 eventuate in those jurisdictions.

3007 But as was made clear by our witnesses, sadly, in many
3008 parts of this country where these protections do not exist,
3009 LGBTQ people face difficult and immoral challenges to their
3010 ability to live a dignified life. The Equality Act would
3011 provide uniform protections for certain basic, fundamental
3012 rights of all Americans. The ability to have a job, to
3013 receive medical care, or to rent a home should not depend on
3014 who someone is or where they live. It certainly should not
3015 depend on who they love. By allowing an entire class of
3016 Americans to be held back by discrimination, we hold back our
3017 entire country. Today we take an important step toward
3018 moving our nation forward instead.

3019 I want to thank the gentleman from Rhode Island, Mr.
3020 Cicilline, for introducing this important legislation, and I
3021 urge my colleagues to support the bill.

3022 I now recognize the ranking member of the Judiciary
3023 Committee, the gentleman from Georgia, Mr. Collins, for his
3024 opening statement.

3025 Mr. Collins. Thank you, Mr. Chairman.

3026 During one week in April, Customs and Border Patrol
3027 apprehended 15,000 family units at our Southwest border. The
3028 immigration loopholes that we have talked about, that I have
3029 introduced a bill on, still need to be addressed. In fact,

3030 as of Tuesday morning, the U.S. Border Patrol apprehended its
3031 largest group of illegal immigrants. CBP reported 424
3032 illegal aliens were apprehended just after midnight in
3033 Sunland Park, New Mexico. An additional 230 illegal aliens
3034 were apprehended at Antelope Wells, New Mexico around 2 a.m.
3035 This is a crisis. I do agree that we need to take up all
3036 bills, including the one that we are taking up this
3037 afternoon, but to continue to ignore the crisis at our
3038 southern border is this committee's, right now, biggest
3039 issue.

3040 Mr. Chairman, this committee has heard from experts on
3041 how H.R. 5 -- this is the bill we are taking up now -- would
3042 destroy females, endanger vulnerable women, and promote
3043 misguided attempts to privilege the rights of a few over the
3044 vast majority of Americans. This committee has heard how
3045 this bill would marginalize an almost endless spectrum of
3046 Americans, but I fear we have not listened.

3047 Today, as we recall who this bill will harm and how, it
3048 is not too late to show courage. Everyone on this dais as
3049 can listen sincerely, take heart, and oppose legislation
3050 based in political theory, not scientific reality.

3051 If my Democratic colleagues do advance this misguided
3052 bill, they must admit that the legislation creates millions
3053 of losers. Intellectual honesty requires us to count the
3054 cost of H.R. 5. Women have won necessary protections against

3055 discrimination and physical harm, but H.R. 5 puts 166 million
3056 American women at the mercy of a biological man who
3057 identifies at any moment as a woman. Do you want to empower
3058 this? Is this the goal of H.R. 5? That is precisely the
3059 kind of consequence this bill would have.

3060 The biological differences between the sexes remain
3061 scientific and certain. By giving any man identifying as a
3062 woman access to protected spaces and statutes, H.R. 5, in the
3063 words of the Women's Liberation Front, nullifies women and
3064 girls as a coherent legal category worthy of civil rights
3065 protection. H.R. 5 does not just marginalize women, it
3066 sacrifices their health and safety and demonizes them if they
3067 object.

3068 The cost is already clear in athletics, where biological
3069 women will overwhelmingly lose to biological men who compete
3070 as women. This week, Martina Navratilova joined other elite
3071 athletes in writing: "The evidence is unequivocal that there
3072 will be significant numbers of boys and men who would beat
3073 the best girls and women in head-to-head competition. Claims
3074 to the contrary are simply a denial of science."

3075 Listen to a key point here. "Sports," they write, "is a
3076 public space where the relevance of sex is undeniable and
3077 where pretending that it is irrelevant, as the Equality Act
3078 suggests, will cause the very harm Title IX was enacted to
3079 address."

3080 Proponents of H.R. 5 call people who oppose it ignorant,
3081 bigoted, oppressive, or hateful. I will not make similar
3082 character assassinations against my friends across the aisle.
3083 Our best intentions sometimes lead us astray, so much so that
3084 we are marking up a bill that would clearly hurt women,
3085 children, and athletes in an effort to support people who
3086 identify as transgender and have often experienced much
3087 suffering.

3088 As I have said at the previous hearing and I will say
3089 again today, everyone needs to be treated with dignity and
3090 respect no matter where they come from or what their
3091 backgrounds are. But that is all, not just part, and we will
3092 do so in marking up this bill today, and today we will
3093 continue to listen to all Americans, including the LGBT
3094 community, and recognize that many within that community have
3095 concerns about this legislation.

3096 H.R. 5 would marginalize and could endanger millions of
3097 American women, undermine fundamental American rights in both
3098 religion and science, and actually put children at risk by
3099 medicalizing them in harmful and permanent ways. We want to
3100 listen to people today, not hurt them. H.R. 5 most certainly
3101 would harm millions of Americans, including people it means
3102 to help.

3103 With that, I yield back.

3104 Chairman Nadler. Thank you, Mr. Collins.

3105 Without objection, all other opening statements will be

3106 included in the record.

3107 [The information follows:]

3108

3109 Chairman Nadler. I now recognize myself for purposes of
3110 offering an amendment in the nature of a substitute.

3111 The Clerk will report the amendment.

3112 [The amendment of Mr. Nadler follows:]

3113

3114 Ms. Strasser. Amendment to H.R. 5, offered by Mr.
3115 Nadler. Strike all that follows after the enacting clause
3116 and insert the following.

3117 Chairman Nadler. Without objection, the amendment in
3118 the nature of a substitute will be considered as read.

3119 Mr. Collins. Mr. Chairman, I am asking for recognition.

3120 Chairman Nadler. The gentleman is recognized.

3121 Mr. Collins. Due to the issues of the abuse of minority
3122 rights on this side of the dais this morning, I object to the
3123 waiving of the reading.

3124 Chairman Nadler. The gentleman refuses our unanimous
3125 consent to waiving the reading.

3126 I move that we waive the reading of the bill.

3127 The Clerk will call the role.

3128 Ms. Strasser. Mr. Nadler?

3129 Chairman Nadler. Wait a minute. I withdraw that. I am
3130 told we cannot do that.

3131 The Clerk will read the bill.

3132 Ms. Strasser. Amendment to H.R. 5, offered by Mr.
3133 Nadler. Strike all that follows after the enacting clause
3134 and insert the following.

3135 SECTION 1. SHORT TITLE.

3136 This Act may be cited as the "Equality Act".

3137 SEC. 2. FINDINGS AND PURPOSE.

3138 (a) Findings. Congress finds the following:

3139 (1) Discrimination can occur on the basis of the sex,
3140 sexual orientation, gender identity, or pregnancy,
3141 childbirth, or a related medical condition of an individual,
3142 as well as because of sex-based stereotypes. Each of these
3143 factors alone can serve as the basis for discrimination, and
3144 each is a form of sex discrimination.

3145 (2) A single instance of discrimination may have more
3146 than one basis. For example, discrimination against a
3147 married same-sex couple could be based on the sex stereotype
3148 that marriage should only be between heterosexual couples,
3149 the sexual orientation of the two individuals in the couple,
3150 or both. Discrimination against a pregnant lesbian could be
3151 based on her sex, her sexual orientation, her pregnancy, or
3152 on the basis of multiple factors.

3153 (3) Lesbian, gay, bisexual, transgender and queer
3154 (referred to as "LGBTQ") people commonly experience
3155 discrimination in securing access to public accommodations,
3156 including restaurants, senior centers, stores, places of or
3157 establishments that provide entertainment, health care
3158 facilities, shelters, government offices, youth service
3159 providers including adoption and foster care providers, and
3160 transportation. Forms of discrimination include the
3161 exclusion and denial of entry, unequal or unfair treatment,
3162 harassment, and violence. This discrimination prevents the
3163 full participation of LGBTQ people in society and disrupts

3164 the free flow of commerce.

3165 (4) Women also have faced discrimination in many
3166 establishments such as stores and restaurants, and places or
3167 establishments that provide other goods or services, such as
3168 entertainment or transportation, including sexual harassment,
3169 differential pricing for substantially similar products and
3170 services, and denial of services because they are pregnant or
3171 breastfeeding.

3172 (5) Many employers already and continue to take
3173 proactive steps, beyond those required by some States and
3174 localities, to ensure they are fostering positive and
3175 respectful cultures for all employees. Many places of public
3176 accommodation also recognize the economic imperative to offer
3177 goods and services to as many consumers as possible.

3178 (6) Regular and ongoing discrimination against LGBTQ
3179 people, as well as women, in accessing public accommodations
3180 contributes to negative social and economic outcomes, and in
3181 the case of public accommodations operated by State and local
3182 governments, abridges individuals' constitutional rights.

3183 (7) The discredited practice known as "conversion
3184 therapy" is a form of discrimination that harms LGBTQ people
3185 by undermining individuals' sense of self worth, increasing
3186 suicide ideation and substance abuse, exacerbating family
3187 conflict, and contributing to second class status.

3188 (8) Both LGBTQ people and women face widespread

3189 discrimination in employment and various services, including
3190 by entities that receive Federal financial assistance. Such
3191 discrimination --

3192 (A) is particularly troubling and inappropriate for
3193 programs and services funded wholly or in part by the Federal
3194 Government;

3195 (B) undermines national progress toward equal treatment
3196 regardless of sex, sexual orientation, or gender identity;
3197 and

3198 (C) is inconsistent with the constitutional principle of
3199 equal protection under the Fourteenth Amendment to the
3200 Constitution of the United States.

3201 (9) Federal courts have widely recognized that, in
3202 enacting the Civil Rights Act of 1964, Congress validly
3203 invoked its powers under the Fourteenth Amendment to provide
3204 a full range of remedies in response to persistent,
3205 widespread, and pervasive discrimination by both private and
3206 government actors.

3207 (10) Discrimination by State and local governments on
3208 the basis of sexual orientation or gender identity in
3209 employment, housing, and public accommodations, and in
3210 programs and activities receiving Federal financial
3211 assistance, violates the Equal Protection Clause of the
3212 Fourteenth Amendment to the Constitution of the United
3213 States. In many circumstances, such discrimination also

3214 violates other constitutional rights such as those of liberty
3215 and privacy under the due process clause of the Fourteenth
3216 Amendment.

3217 (11) Individuals who are LGBTQ, or are perceived to be
3218 LGBTQ, have been subjected to a history and pattern of
3219 persistent, widespread, and pervasive discrimination on the
3220 bases of sexual orientation and gender identity by both
3221 private sector and Federal, State, and local government
3222 actors, including in employment, housing, and public
3223 accommodations, and in programs and activities receiving
3224 Federal financial assistance. An explicit and comprehensive
3225 national solution is needed to address such discrimination,
3226 which has sometimes resulted in violence or death, including
3227 the full range of remedies available under the Civil Rights
3228 Act of 1964.

3229 (12) Numerous provisions of Federal law expressly
3230 prohibit discrimination on the basis of sex, and Federal
3231 agencies and courts have correctly interpreted these
3232 prohibitions on sex discrimination to include discrimination
3233 based on sexual orientation, gender identity, and sex
3234 stereotypes. In particular, the Equal Employment Opportunity
3235 Commission correctly interpreted Title VII of the Civil
3236 Rights Act of 1964 in *Macy v. Holder*, *Baldwin v. Foxx*, and
3237 *Lusardi v. McHugh*.

3238 (13) The absence of explicit prohibitions of

3239 discrimination on the basis of sexual orientation and gender
3240 identity under Federal statutory law has created uncertainty
3241 for employers and other entities covered by Federal
3242 nondiscrimination laws and caused unnecessary hardships for
3243 LGBTQ individuals.

3244 (14) LGBTQ people often face discrimination when seeking
3245 to rent or purchase housing, as well as in every other aspect
3246 of obtaining and maintaining housing. LGBTQ people in same-
3247 sex relationships are often discriminated against when two
3248 names associated with one gender appear on a housing
3249 application, and transgender people often encounter
3250 discrimination when credit checks or inquiries reveal a
3251 former name.

3252 (15) National surveys, including a study commissioned by
3253 the Department of Housing and Urban Development, show that
3254 housing discrimination against LGBTQ people is very
3255 prevalent. For instance, when same-sex couples inquire about
3256 housing that is available for rent, they are less likely to
3257 receive positive responses from landlords. A national
3258 matched-pair testing investigation found that nearly one-half
3259 of same-sex couples face adverse, differential treatment when
3260 seeking elder housing. According to other studies,
3261 transgender people have half the homeownership rate of non-
3262 transgender people and about 1 in 5 transgender people
3263 experience homelessness.

3264 (16) As a result of the absence of explicit prohibitions
3265 against discrimination on the basis of sexual orientation and
3266 gender identity, credit applicants who are LGBTQ, or
3267 perceived to be LGBTQ, have unequal opportunities to
3268 establish credit. LGBTQ people can experience being denied a
3269 mortgage, credit card, student loan, or many other types of
3270 credit simply because of their sexual orientation or gender
3271 identity.

3272 (17) Numerous studies demonstrate that LGBTQ people,
3273 especially transgender people and women, are economically
3274 disadvantaged and at a higher risk for poverty compared with
3275 other groups of people. For example, older women in same-sex
3276 couples have twice the poverty rate of older different-sex
3277 couples.

3278 (18) The right to an impartial jury of one's peers and
3279 the reciprocal right to jury service are fundamental to the
3280 free and democratic system of justice in the United States
3281 and are based in the Bill of Rights. There is, however, an
3282 unfortunate and long-documented history in the United States
3283 of attorneys discriminating against LGBTQ individuals, or
3284 those perceived to be LGBTQ, in jury selection. Failure to
3285 bar peremptory challenges based on the actual or perceived
3286 sexual orientation or gender identity of an individual not
3287 only erodes a fundamental right, duty, and obligation of
3288 being a citizen of the United States, but also unfairly

3289 creates a second class of citizenship for LGBTQ victims,
3290 witnesses, plaintiffs, and defendants.

3291 (19) Numerous studies document the shortage of qualified
3292 and available homes for the 437,000 youth in the child
3293 welfare system and the negative outcomes for the many youth
3294 who live in group care as opposed to a loving home or who age
3295 out without a permanent family. Although same-sex couples
3296 are 7 times more likely to foster or adopt than their
3297 different-sex counterparts, many child placing agencies
3298 refuse to serve same-sex couples and LGBTQ individuals. This
3299 has resulted in a reduction of the pool of qualified and
3300 available homes for youth in the child welfare system who
3301 need placement on a temporary or permanent basis. Barring
3302 discrimination in foster care and adoption will increase the
3303 number of homes available to foster children waiting for
3304 foster and adoptive families.

3305 (20) LGBTQ youth are overrepresented in the foster care
3306 system by at least a factor of two and report twice the rate
3307 of poor treatment while in care compared to their non-LGBTQ
3308 counterparts. LGBTQ youth in foster care have a higher
3309 average number of placements, higher likelihood of living in
3310 a group home, and higher rates of hospitalization for
3311 emotional reasons and juvenile justice involvement than their
3312 non-LGBTQ peers because of the high level of bias and
3313 discrimination that they face and the difficulty of finding

3314 affirming foster placements. Further, due to their physical
3315 distance from friends and family, traumatic experiences, and
3316 potentially unstable living situations, all youth involved
3317 with child welfare are at risk for being targeted by
3318 traffickers seeking to exploit children. Barring
3319 discrimination in child welfare services will ensure improved
3320 treatment and outcomes for LGBTQ foster children.

3321 (b) Purpose. It is the purpose of this Act to expand as
3322 well as clarify, confirm and create greater consistency in
3323 the protections and remedies against discrimination on the
3324 basis of all covered characteristics and to provide guidance
3325 and notice to individuals, organizations, corporations, and
3326 agencies regarding their obligations under the law.

3327 SEC. 3. PUBLIC ACCOMMODATIONS.

3328 (a) Prohibition On Discrimination Or Segregation In
3329 Public Accommodations. Section 201 of the Civil Rights Act
3330 of 1964 (42 U.S.C. 2000a) is amended --

3331 (1) in subsection (a), by inserting "sex (including
3332 sexual orientation and gender identity)," before "or national
3333 origin"; and

3334 (2) in subsection (b) --

3335 (A) in paragraph (3), by striking "stadium" and all that
3336 follows and inserting "stadium or other place of or
3337 establishment that provides exhibition, entertainment,
3338 recreation, exercise, amusement, gathering, or display;"

3339 (B) by redesignating paragraph (4) as paragraph (6); and

3340 (C) by inserting after paragraph (3) the following:

3341 "(4) any establishment that provides a good, service, or
3342 program, including a store, shopping center, online retailer
3343 or service provider, salon, bank, gas station, food bank,
3344 service or care center, shelter, travel agency, or funeral
3345 parlor, or establishment that provides health care,
3346 accounting, or legal services;

3347 "(5) any train service, bus service, car service, taxi
3348 service, airline service, station, depot, or other place of
3349 or establishment that provides transportation service; and".

3350 (b) Prohibition On Discrimination Or Segregation Under
3351 Law. Section 202 of such Act (42 U.S.C. 2000a-1) is amended
3352 by inserting "sex (including sexual orientation and gender
3353 identity)," before "or national origin".

3354 (c) Rule Of Construction. Title II of such Act (42
3355 U.S.C. 2000a et seq.) is amended by adding at the end the
3356 following:

3357 "SEC. 208. RULE OF CONSTRUCTION.

3358 "A reference in this title to an establishment --

3359 "(1) shall be construed to include an individual whose
3360 operations affect commerce and who is a provider of a good,
3361 service, or program; and

3362 "(2) shall not be construed to be limited to a physical
3363 facility or place.".

3364 SEC. 4. DESEGREGATION OF PUBLIC FACILITIES.

3365 Section 301(a) of the Civil Rights Act of 1964 (42
3366 U.S.C. 2000b(a)) is amended by inserting "sex (including
3367 sexual orientation and gender identity)," before "or national
3368 origin".

3369 SEC. 5. DESEGREGATION OF PUBLIC EDUCATION.

3370 (a) Definitions. Section 401(b) of the Civil Rights Act
3371 of 1964 (42 U.S.C. 2000c(b)) is amended by inserting
3372 "(including sexual orientation and gender identity)," before
3373 "or national origin".

3374 (b) Civil Actions By The Attorney General. Section 407
3375 of such Act (42 U.S.C. 2000c-6) is amended, in subsection
3376 (a) (2), by inserting "(including sexual orientation and
3377 gender identity)," before "or national origin".

3378 (c) Classification And Assignment. Section 410 of such
3379 Act (42 U.S.C. 2000c-9) is amended by inserting "(including
3380 sexual orientation and gender identity)," before "or national
3381 origin".

3382 SEC. 6. FEDERAL FUNDING.

3383 Section 601 of the Civil Rights Act of 1964 (42 U.S.C.
3384 2000d) is amended by inserting "sex (including sexual
3385 orientation and gender identity)," before "or national
3386 origin,".

3387 SEC. 7. EMPLOYMENT.

3388 (a) Rules Of Construction. Title VII of the Civil

3389 Rights Act of 1964 is amended by inserting after section 701
3390 (42 U.S.C. 2000e) the following:

3391 "SEC. 701A. RULES OF CONSTRUCTION.

3392 "Section 1106 shall apply to this title except that for
3393 purposes of that application, a reference in that section to
3394 an 'unlawful practice' shall be considered to be a reference
3395 to an 'unlawful employment practice'."

3396 (b) Unlawful Employment Practices. Section 703 of the
3397 Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended --

3398 (1) in the section header, by striking "SEX," and
3399 inserting "SEX (INCLUDING SEXUAL ORIENTATION AND GENDER
3400 IDENTITY),";

3401 (2) except in subsection (e), by striking "sex," each
3402 place it appears and inserting "sex (including sexual
3403 orientation and gender identity),"; and

3404 (3) in subsection (e) (1), by striking "enterprise," and
3405 inserting "enterprise, if, in a situation in which sex is a
3406 bona fide occupational qualification, individuals are
3407 recognized as qualified in accordance with their gender
3408 identity,".

3409 (c) Other Unlawful Employment Practices. Section 704(b)
3410 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-3(b)) is
3411 amended --

3412 (1) by striking "sex," the first place it appears and
3413 inserting "sex (including sexual orientation and gender

3414 identity),"; and

3415 (2) by striking "employment." and inserting "employment,
3416 if, in a situation in which sex is a bona fide occupational
3417 qualification, individuals are recognized as qualified in
3418 accordance with their gender identity.".

3419 (d) Claims. Section 706(g)(2)(A) of the Civil Rights
3420 Act of 1964 (2000e-5(g)(2)(A)) is amended by striking "sex,"
3421 and inserting "sex (including sexual orientation and gender
3422 identity),".

3423 (e) Employment By Federal Government. Section 717 of
3424 the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended
3425 --

3426 (1) in subsection (a), by striking "sex," and inserting
3427 "sex (including sexual orientation and gender identity),";
3428 and

3429 (2) in subsection (c), by striking "sex" and inserting
3430 "sex (including sexual orientation and gender identity),".

3431 (f) Government Employee Rights Act Of 1991. The
3432 Government Employee Rights Act of 1991 (42 U.S.C. 2000e-16a
3433 et seq.) is amended --

3434 (1) in section 301(b), by striking "sex," and inserting
3435 "sex (including sexual orientation and gender identity),";

3436 (2) in section 302(a)(1), by striking "sex," and
3437 inserting "sex (including sexual orientation and gender
3438 identity),"; and

3439 (3) by adding at the end the following:

3440 "SEC. 305. RULES OF CONSTRUCTION AND CLAIMS.

3441 "Sections 1101(b), 1106, and 1107 of the Civil Rights
3442 Act of 1964 shall apply to this title except that for
3443 purposes of that application, a reference in that section
3444 1106 to 'race, color, religion, sex (including sexual
3445 orientation and gender identity), or national origin' shall
3446 be considered to be a reference to 'race, color, religion,
3447 sex, sexual orientation, gender identity, national origin,
3448 age, or disability'."

3449 (g) Congressional Accountability Act Of 1995. The
3450 Congressional Accountability Act of 1995 (2 U.S.C. 1301 et
3451 seq.) is amended --

3452 (1) in section 201(a)(1) (2 U.S.C. 1311(a)(1)) by
3453 inserting "(including sexual orientation and gender
3454 identity)," before "or national origin,"; and

3455 (2) by adding at the end of title II (42 U.S.C. 1311 et
3456 seq.) the following:

3457 "SEC. 208. RULES OF CONSTRUCTION AND CLAIMS.

3458 "Sections 1101(b), 1106, and 1107 of the Civil Rights
3459 Act of 1964 shall apply to section 201 (and remedial
3460 provisions of this Act related to section 201) except that
3461 for purposes of that application, a reference in that section
3462 1106 to 'race, color, religion, sex (including sexual
3463 orientation and gender identity), or national origin' shall

3464 be considered to be a reference to 'race, color, religion,
3465 sex (including sexual orientation and gender identity),
3466 national origin, age, or disability'."

3467 (h) Civil Service Reform Act Of 1978. Chapter 23 of
3468 title 5, United States Code, is amended --

3469 (1) in section 2301(b)(2), by striking "sex," and
3470 inserting "sex (including sexual orientation and gender
3471 identity),";

3472 (2) in section 2302 --

3473 (A) in subsection (b)(1)(A), by inserting "(including
3474 sexual orientation and gender identity)," before "or national
3475 origin,"; and

3476 (B) in subsection (d)(1), by inserting "(including
3477 sexual orientation and gender identity)," before "or national
3478 origin,"; and

3479 (3) by adding at the end the following:

3480 "SEC. 2307. RULES OF CONSTRUCTION AND CLAIMS.

3481 "Sections 1101(b), 1106, and 1107 of the Civil Rights
3482 Act of 1964 shall apply to this chapter (and remedial
3483 provisions of this title related to this chapter) except that
3484 for purposes of that application, a reference in that section
3485 1106 to 'race, color, religion, sex (including sexual
3486 orientation and gender identity), or national origin' shall
3487 be considered to be a reference to 'race, color, religion,
3488 sex (including sexual orientation and gender identity),

3489 national origin, age, a handicapping condition, marital
3490 status, or political affiliation'.".

3491 SEC. 8. INTERVENTION.

3492 Section 902 of the Civil Rights Act of 1964 (42 U.S.C.
3493 2000h-2) is amended by inserting "(including sexual
3494 orientation and gender identity)," before "or national
3495 origin,".

3496 SEC. 9. MISCELLANEOUS.

3497 Title XI of the Civil Rights Act of 1964 is amended --

3498 (1) by redesignating sections 1101 through 1104 (42
3499 U.S.C. 2000h et seq.) and sections 1105 and 1106 (42 U.S.C.
3500 2000h-5, 2000h-6) as sections 1102 through 1105 and sections
3501 1108 and 1109, respectively;

3502 (2) by inserting after the title heading the following:

3503 "SEC. 1101. DEFINITIONS AND RULES.

3504 "(a) Definitions. In titles II, III, IV, VI, VII, and
3505 IX (referred to individually in sections 1106 and 1107 as a
3506 'covered title'):

3507 "(1) RACE; COLOR; RELIGION; SEX; SEXUAL ORIENTATION;
3508 GENDER IDENTITY; NATIONAL ORIGIN. The term 'race', 'color',
3509 'religion', 'sex' (including 'sexual orientation' and 'gender
3510 identity'), or 'national origin', used with respect to an
3511 individual, includes --

3512 "(A) the race, color, religion, sex (including sexual
3513 orientation and gender identity), or national origin,

3514 respectively, of another person with whom the individual is
3515 associated or has been associated; and

3516 “(B) a perception or belief, even if inaccurate,
3517 concerning the race, color, religion, sex (including sexual
3518 orientation and gender identity), or national origin,
3519 respectively, of the individual.

3520 “(2) GENDER IDENTITY. The term ‘gender identity’ means
3521 the gender-related identity, appearance, mannerisms, or other
3522 gender-related characteristics of an individual, regardless
3523 of the individual’s designated sex at birth.

3524 “(3) INCLUDING. The term ‘including’ means including,
3525 but not limited to, consistent with the term's standard
3526 meaning in Federal law.

3527 “(4) SEX.—The term ‘sex’ includes --

3528 “(A) a sex stereotype;

3529 “(B) pregnancy, childbirth, or a related medical
3530 condition;

3531 “(C) sexual orientation or gender identity; and

3532 “(D) sex characteristics, including intersex traits.

3533 “(5) SEXUAL ORIENTATION. The term ‘sexual orientation’
3534 means homosexuality, heterosexuality, or bisexuality.

3535 “(b) Rules. In a covered title referred to in
3536 subsection (a) --

3537 “(1) (with respect to sex) pregnancy, childbirth, or a
3538 related medical condition shall not receive less favorable

3539 treatment than other physical conditions; and

3540 “(2) (with respect to gender identity) an individual
3541 shall not be denied access to a shared facility, including a
3542 restroom, a locker room, and a dressing room, that is in
3543 accordance with the individual's gender identity.”; and

3544 (3) by inserting after section 1105 the following:

3545 “SEC. 1106. RULES OF CONSTRUCTION.

3546 “(a) Sex. Nothing in section 1101 or the provisions of
3547 a covered title incorporating a term defined or a rule
3548 specified in that section shall be construed --

3549 “(1) to limit the protection against an unlawful
3550 practice on the basis of pregnancy, childbirth, or a related
3551 medical condition provided by section 701(k); or

3552 “(2) to limit the protection against an unlawful
3553 practice on the basis of sex available under any provision of
3554 Federal law other than that covered title, prohibiting a
3555 practice on the basis of sex.

3556 “(b) Claims And Remedies Not Precluded. Nothing in
3557 section 1101 or a covered title shall be construed to limit
3558 the claims or remedies available to any individual for an
3559 unlawful practice on the basis of race, color, religion, sex
3560 (including sexual orientation and gender identity), or
3561 national origin including claims brought pursuant to section
3562 1979 or 1980 of the Revised Statutes (42 U.S.C. 1983, 1985)
3563 or any other law, including a Federal law amended by the

3564 Equality Act, regulation, or policy.

3565 “(c) No Negative Inference. Nothing in section 1101 or
3566 a covered title shall be construed to support any inference
3567 that any Federal law prohibiting a practice on the basis of
3568 sex does not prohibit discrimination on the basis of
3569 pregnancy, childbirth, or a related medical condition, sexual
3570 orientation, gender identity, or a sex stereotype.

3571 “SEC. 1107. CLAIMS.

3572 “The Religious Freedom Restoration Act of 1993 (42
3573 U.S.C. 2000bb et seq.) shall not provide a claim concerning,
3574 or a defense to a claim under, a covered title, or provide a
3575 basis for challenging the application or enforcement of a
3576 covered title.”.

3577 SEC. 10. HOUSING.

3578 (a) Fair Housing Act. The Fair Housing Act (42 U.S.C.
3579 3601 et seq.) is amended --

3580 (1) in section 802 (42 U.S.C. 3602), by adding at the
3581 end the following:

3582 “(p) ‘Gender identity’, ‘sex’, and ‘sexual orientation’
3583 have the meanings given those terms in section 1101(a) of the
3584 Civil Rights Act of 1964.

3585 “(q) ‘Race’, ‘color’, ‘religion’, ‘sex’ (including
3586 ‘sexual orientation’ and ‘gender identity’), ‘handicap’,
3587 ‘familial status’, or ‘national origin’, used with respect to
3588 an individual, includes --

3589 “(1) the race, color, religion, sex (including sexual
3590 orientation and gender identity), handicap, familial status,
3591 or national origin, respectively, of another person with whom
3592 the individual is associated or has been associated; and

3593 “(2) a perception or belief, even if inaccurate,
3594 concerning the race, color, religion, sex (including sexual
3595 orientation and gender identity), handicap, familial status,
3596 or national origin, respectively, of the individual.”;

3597 (2) in section 804, by inserting “(including sexual
3598 orientation and gender identity),” after “sex,” each place
3599 that term appears;

3600 (3) in section 805, by inserting “(including sexual
3601 orientation and gender identity),” after “sex,” each place
3602 that term appears;

3603 (4) in section 806, by inserting “(including sexual
3604 orientation and gender identity),” after “sex,”;

3605 (5) in section 808(e)(6), by inserting “(including
3606 sexual orientation and gender identity),” after “sex,”; and

3607 (6) by adding at the end the following:

3608 “SEC. 821. RULES OF CONSTRUCTION.

3609 “Sections 1101(b) and 1106 of the Civil Rights Act of
3610 1964 shall apply to this title and section 901, except that
3611 for purposes of that application, a reference in that section
3612 1101(b) or 1106 to a ‘covered title’ shall be considered a
3613 reference to ‘this title and section 901’.

3614 "SEC. 822. CLAIMS.

3615 "Section 1107 of the Civil Rights Act of 1964 shall
3616 apply to this title and section 901, except that for purposes
3617 of that application, a reference in that section 1107 to a
3618 'covered title' shall be considered a reference to 'this
3619 title and section 901'."

3620 (b) Prevention Of Intimidation In Fair Housing Cases.
3621 Section 901 of the Civil Rights Act of 1968 (42 U.S.C. 3631)
3622 is amended by inserting "(including sexual orientation (as
3623 such term is defined in section 802 of this Act) and gender
3624 identity (as such term is defined in section 802 of this
3625 Act))," after "sex," each place that term appears.

3626 SEC. 11. EQUAL CREDIT OPPORTUNITY.

3627 (a) Prohibited Discrimination. Section 701(a)(1) of the
3628 Equal Credit Opportunity Act (15 U.S.C. 1691(a)(1)) is
3629 amended by inserting "(including sexual orientation and
3630 gender identity)," after "sex".

3631 (b) Definitions. Section 702 of the Equal Credit
3632 Opportunity Act (15 U.S.C. 1691a) is amended --

3633 (1) by redesignating subsections (f) and (g) as
3634 subsections (h) and (i), respectively;

3635 (2) by inserting after subsection (e) the following:

3636 "(f) The terms 'gender identity', 'sex', and 'sexual
3637 orientation' have the meanings given those terms in section
3638 1101(a) of the Civil Rights Act of 1964.

3639 “(g) The term ‘race’, ‘color’, ‘religion’, ‘national
3640 origin’, ‘sex’ (including ‘sexual orientation’ and ‘gender
3641 identity’), ‘marital status’, or ‘age’, used with respect to
3642 an individual, includes --

3643 “(1) the race, color, religion, national origin, sex
3644 (including sexual orientation and gender identity), marital
3645 status, or age, respectively, of another person with whom the
3646 individual is associated or has been associated; and

3647 “(2) a perception or belief, even if inaccurate,
3648 concerning the race, color, religion, national origin, sex
3649 (including sexual orientation and gender identity), marital
3650 status, or age, respectively, of the individual.”; and

3651 (3) by adding at the end the following:

3652 “(j) Sections 1101(b) and 1106 of the Civil Rights Act
3653 of 1964 shall apply to this title, except that for purposes
3654 of that application --

3655 “(1) a reference in those sections to a ‘covered title’
3656 shall be considered a reference to ‘this title’; and

3657 “(2) paragraph (1) of such section 1101(b) shall apply
3658 with respect to all aspects of a credit transaction.”.

3659 (c) Relation To State Laws. Section 705(a) of the Equal
3660 Credit Opportunity Act (15 U.S.C. 1691d(a)) is amended by
3661 inserting “(including sexual orientation and gender
3662 identity),” after “sex”.

3663 (d) Civil Liability. Section 706 of the Equal Credit

3664 Opportunity Act (15 U.S.C. 1691e) is amended by adding at the
3665 end the following:

3666 “(1) Section 1107 of the Civil Rights Act of 1964 shall
3667 apply to this title, except that for purposes of that
3668 application, a reference in that section to a ‘covered title’
3669 shall be considered a reference to ‘this title’.”.

3670 SEC. 12. JURIES.

3671 (a) In General. Chapter 121 of title 28, United States
3672 Code, is amended --

3673 (1) in section 1862, by inserting “(including sexual
3674 orientation and gender identity),” after “sex,”;

3675 (2) in section 1867(e), in the second sentence, by
3676 inserting “(including sexual orientation and gender
3677 identity),” after “sex,”;

3678 (3) in section 1869 --

3679 (A) in subsection (j), by striking “and” at the end;

3680 (B) in subsection (k), by striking the period at the end
3681 and inserting a semicolon; and

3682 (C) by adding at the end the following:

3683 “(1) ‘gender identity’, ‘sex’, and ‘sexual orientation’
3684 have the meanings given such terms under section 1101(a) of
3685 the Civil Rights Act of 1964; and

3686 “(m) ‘race’, ‘color’, ‘religion’, ‘sex’ (including
3687 ‘sexual orientation’ and ‘gender identity’), ‘economic
3688 status’, or ‘national origin’, used with respect to an

3689 individual, includes --

3690 “(1) the race, color, religion, sex (including sexual
3691 orientation and gender identity), economic status, or
3692 national origin, respectively, of another person with whom
3693 the individual is associated or has been associated; and

3694 “(2) a perception or belief, even if inaccurate,
3695 concerning the race, color, religion, sex (including sexual
3696 orientation and gender identity), economic status, or
3697 national origin, respectively, of the individual.”; and

3698 (4) by adding at the end the following:

3699 “1879. Rules of construction and claims

3700 “Sections 1101(b), 1106, and 1107 of the Civil Rights
3701 Act of 1964 shall apply to this chapter, except that for
3702 purposes of that application, a reference in those sections
3703 to a ‘covered title’ shall be considered a reference to ‘this
3704 chapter’.”.

3705 (b) Technical And Conforming Amendment. The table of
3706 sections for chapter 121 of title 28, United States Code, is
3707 amended by adding at the end the following:

3708 “1879. Rules of construction and claims.”.

3709 Chairman Nadler. With thanks to the Clerk, again.

3710 I will now recognize myself to explain the amendment.

3711 The amendment in the nature of a substitute makes a
3712 limited number of technical and clarifying changes to conform
3713 the House bill with its Senate companion, S.788, as to those

3714 provisions that are within the Judiciary Committee's
3715 jurisdiction.

3716 In the bill's Findings section, the amendment adds a
3717 reference to queer persons as among those who face continuing
3718 discrimination and makes a conforming technical revision by
3719 replacing the term LGBT with LGBTQ throughout that section.
3720 In addition, it makes two minor changes in the Findings
3721 section.

3722 Finally, the amendment adds the term "public" in two
3723 places on page 12, line 9 of the bill as introduced, before
3724 the word "gathering" and the word "display." This clarifies
3725 that the bill's definition of public accommodations includes
3726 a "place of public gathering or public display."

3727 With these modest changes, I urge the committee to
3728 support the amendment.

3729 I will now recognize the ranking member of the full
3730 committee, Mr. Collins, for any comments he may have on the
3731 amendment.

3732 Mr. Collins. Thank you, Mr. Chairman.

3733 I recognize the changes meet the qualifications for an
3734 ANS and still uphold my original objections to this
3735 legislation. But after that, I yield back.

3736 Chairman Nadler. I thank the gentleman.

3737 Are there any amendments to the amendment in the nature
3738 of a substitute?

3739 The gentleman from Texas. For what purpose does the
3740 gentleman from Texas seek recognition?

3741 Mr. Gohmert. Mr. Chairman, I have an amendment to the
3742 amendment in the nature of a substitute at the desk.

3743 Chairman Nadler. The clerk will report the amendment.

3744 [The amendment of Mr. Gohmert follows:]

3745

3746 Ms. Strasser. Amendment to the amendment in the nature
3747 of a substitute to H.R. 5, offered by Mr. Gohmert of Texas.
3748 Page 21, strike line 1 and all that follows through line 6.

3749 Chairman Nadler. The gentleman is recognized to explain
3750 his amendment.

3751 Mr. Gohmert. Thank you, Mr. Chairman.

3752 My amendment would simply restore the application of the
3753 Religious Freedom Restoration Act to the underlying bill.

3754 Section 1107 of the Equality Act states "that the
3755 Religious Freedom Restoration Act of 1993 shall not provide a
3756 claim concerning or a defense to a claim under a covered
3757 title or provide a basis for challenging the application or
3758 enforcement of a covered title."

3759 By exempting the Equality Act from the religious liberty
3760 protections of the Religious Freedom Restoration Act, all
3761 religious entities will be forced to accommodate or provide
3762 services in violation potentially of their sincerely held
3763 beliefs.

3764 Twenty-five years ago, Congress passed the Religious
3765 Freedom Restoration Act on an overwhelmingly bipartisan basis
3766 with a Democrat majority. The Religious Freedom Restoration
3767 Act was sponsored by individuals such as then-Congressman
3768 Chuck Schumer. Current Chairman Nadler was an original
3769 cosponsor, along with current Speaker Pelosi and current
3770 Majority Leader Hoyer.

3771 Of the bill's 170 cosponsors, 122, obviously a large
3772 majority of the cosponsors, were Democrats. Several of the
3773 bill's cosponsors are still in office today.

3774 The Religious Freedom Restoration Act, passed by the
3775 House unanimously, and passed by the Senate by a vote of 97
3776 to 3, was signed into law by President Bill Clinton.

3777 Today Democrats, as part of an overwhelmingly partisan
3778 bill, with 239 Democratic cosponsors, will apparently vote to
3779 negate the religious liberty protections they previously
3780 supported, and it does not appear that this Democratic
3781 Congress will stop until our freedoms are negated elsewhere
3782 as well.

3783 It only took 25 years for Democrats to pull an about-
3784 face and propose a blatantly unconstitutional restriction on
3785 religious liberties. What starts with one exemption for one
3786 bill will turn into an all-out assault on not just our
3787 religious liberties but all freedoms we hold dear as
3788 Americans.

3789 We have seen with this debate our religious freedom
3790 suffering death by a thousand cuts. Our current Chairman
3791 Nadler had this to say about the Religious Freedom
3792 Restoration Act: "What has made the American experiment
3793 work? What has saved us from the poisonous hatreds that are
3794 consuming other nations? It has been tolerance and respect
3795 for diversity enshrined in the freedom of religion clauses of

3796 our Bill of Rights. It was no accident that the framers of
3797 our Bill of Rights chose to place the free exercise of
3798 religion first among our fundamental freedoms. The House
3799 should do no less."

3800 Tens of millions of Americans still believe that Moses
3801 was a prophet. With his human frailties, they believe he
3802 spoke for God, and that his pronouncements have been used for
3803 the betterment of mankind for 3,000 years or so.

3804 This negating of the Religious Freedom Restoration Act
3805 of 1993, an act that was made necessary by continuing
3806 encroachments on religious freedoms, is now about to be
3807 negated with a blow that will soon lead to its demise
3808 congressionally.

3809 I urge my colleagues to do more and to reaffirm their
3810 commitment to protecting religious liberties by supporting
3811 this amendment. We have heard women's causes that will be
3812 materially affected and hurt by this bill. Women's athletics
3813 is one area. All the great gains will be for nothing.

3814 If this bill passes, taking a blow torch to the first
3815 part of the First Amendment, religious freedom is going to be
3816 in material jeopardy.

3817 I yield back.

3818 Chairman Nadler. I thank the gentleman.

3819 I will recognize myself for 5 minutes in opposition to
3820 the amendment.

3821 The gentleman is quite correct, I was one of the main
3822 sponsors of the Religious Freedom Restoration Act back in
3823 1993, my first year in Congress. I am very proud of it. I
3824 was in 2000, along with Charles Canaday, a Republican from
3825 Florida who some of you may remember, who I now believe is a
3826 member of the Florida state supreme court, the chief sponsor.
3827 The two of us sponsored the Religious Land Use and
3828 Institutionalized Persons Act, which is finally referred to
3829 as RLUIPA, which took RFRA a little further, and I very much
3830 support RFRA and the reasons we enacted it.

3831 The Equality Act does not repeal RFRA. The Equality Act
3832 clarifies that RFRA, the Religious Freedom Restoration Act,
3833 cannot be used to defend discrimination in public settings or
3834 with public funds. It does not alter or amend the RFRA
3835 standard for any other kind of claims.

3836 It affirms that the government has a compelling interest
3837 in eradicating discrimination by removing RFRA as a defense
3838 to discrimination. The whole purpose of RFRA was to act as a
3839 shield against government imposition on religious practices.
3840 It was not intended to be used as a sword to impose anyone
3841 else's religious standards on someone else or to defend
3842 improper discriminatory actions.

3843 Courts have long rejected religious claims as a reason
3844 to deny civil rights protections, including based on race and
3845 sex, and the same analysis applies to other protected

3846 characteristics such as sexual orientation and gender
3847 identity. Religious belief did not excuse restaurants or
3848 hotels from following the civil rights laws in the 1960s, and
3849 cannot do so today.

3850 RFRA will still be available to address government
3851 burdens on the free exercise of religion, but it should not
3852 be read -- and all this bill says is it cannot be read to
3853 justify acts of invidious discrimination. And, in fact,
3854 basically, that balance is already struck between our civil
3855 rights laws and RFRA. What the Equality Act does essentially
3856 is to add sexual orientation and gender identity to existing
3857 civil rights laws which include sexual discrimination.

3858 So where you can discriminate on the basis of sex or
3859 race or whatever because of your religion, such as if you are
3860 a church or synagogue and you support male priests and rabbis
3861 and not female priests and rabbis, this will not stop that.
3862 And by the same token, if you are a place of public
3863 accommodation and you are now therefore subject to the laws
3864 against racial or sexual discrimination, you will now be
3865 subject to a law against discrimination on the basis of
3866 sexual orientation or gender identity. RFRA is not affected,
3867 and the reason we are clarifying it here is to make it clear
3868 that it cannot be used in certain areas as a sword for
3869 discrimination as opposed to a shield for religious liberty,
3870 and that is the proper balance, and I therefore oppose the

3871 amendment.

3872 Is there any other -- the gentleman from California is
3873 recognized.

3874 Mr. McClintock. Mr. Chairman, I would yield my time to
3875 the gentleman from Texas.

3876 Mr. Gohmert. Thank you. I appreciate my friend from
3877 California yielding.

3878 I appreciate the Chairman's assurance that this could
3879 not emasculate, I guess, the provisions of religion, say,
3880 that believes rabbis should be males.

3881 And yet, though I appreciate the assurance, if we had
3882 not just witnessed during the Obama Administration the United
3883 States Government suing Catholic women who took a vow of
3884 poverty and spent their lives helping the poor and suing them
3885 to force them to help fund abortion against their strongly
3886 held religious convictions, the assurances might be more
3887 welcome.

3888 However, as a former judge and chief justice, I know
3889 that words have meaning. And when this provision says that
3890 the Religious Freedom Restoration Act shall not provide a
3891 defense to a claim under a covered title, provide a basis for
3892 challenging the application or enforcement of a covered
3893 title, that will someday be interpreted by some group of
3894 judges to mean what it says, you cannot use religious freedom
3895 in order to protect saying males should be the rabbis, or

3896 whatever the closely held religious conviction is.

3897 It could be utilized to say, for example, that someone
3898 who may have switched back and forth in their beliefs of what
3899 their gender is should be able to be a deacon or a minister
3900 in a church. It will be used as a sword to strike down our
3901 religious freedoms because the words here have meaning just
3902 as they say.

3903 So I appreciate the thought of the Chair, but I know
3904 these words will be given the meaning that they actually have
3905 at some point, and it will emasculate, it will destroy the
3906 intent of the First Amendment to give us religious freedom
3907 and that no laws will be passed to prohibit the free exercise
3908 thereof.

3909 I yield back.

3910 Chairman Nadler. The gentleman from Rhode Island, Mr.
3911 Cicilline, is recognized. For what purpose does the
3912 gentleman seek recognition?

3913 Mr. Cicilline. I moved to strike the last word.

3914 Chairman Nadler. The last word is struck.

3915 Mr. Cicilline. Thank you, Mr. Chairman.

3916 I just want to read from a United States Supreme Court
3917 decision written by Justice Scalia, who wrote in *Employment*
3918 *Division v. Smith*, "Conscientious scruples have not, in the
3919 course of the long struggle for religious toleration,
3920 relieved the individual from obedience to a general law not

3921 aimed at the promotion or restriction of religious beliefs.
3922 The mere possession of religious convictions which contradict
3923 the relevant concerns of a political society does not relieve
3924 the citizen from the discharge of political responsibility.”

3925 Scalia then goes on to quote *Reynolds v. United States*
3926 and says, “Laws are made for the government of actions, and
3927 while they cannot interfere with mere religious belief and
3928 opinions, they may with practices. Can a man excuse his
3929 practice to the contrary because of his religious beliefs?
3930 To permit this would be to make the professed doctrines of
3931 religious belief superior to the law of the land and, in
3932 effect, permit every citizen to become a law unto himself.”

3933 It was after that decision that Congress passed the RFRA
3934 in 1993, intended to make certain that the government did not
3935 substantially burden a person’s exercise of religion unless
3936 it was in furtherance of a compelling government interest.

3937 So this amendment or this provision in the Equality Act
3938 does not eliminate RFRA. It simply says you may not use RFRA
3939 as a basis for discrimination and clarifies the congressional
3940 intent of RFRA, as Mr. Nadler just explained. The Equality
3941 Act wants to ensure that RFRA cannot be used to defend
3942 discrimination in public settings or with Federal funds. It
3943 does not alter or amend the RFRA standard for any other kinds
3944 of claims. The Equality Act does not repeal the Religious
3945 Freedom Restoration Act. It affirms that the government has

3946 a compelling interest in eradicating discrimination by
3947 removing RFRA as a defense to discrimination.

3948 And so even if you applied RFRA, it would not undo any
3949 of the provisions of the Equality Act because we have a
3950 compelling interest as a society to end discrimination.
3951 Federal civil rights laws and the U.S. Constitution provide
3952 many exemptions for religious organizations. The statutory
3953 exemptions that are already in place in the Civil Rights Act
3954 and the Fair Housing Act will remain in place, and the U.S.
3955 Constitution, of course, remains untouched.

3956 Courts have long rejected religious claims as a reason
3957 to deny civil rights, including protections based on race and
3958 sex, and the same analysis applies to all other protected
3959 characteristics. Specifically, religious belief did not
3960 excuse restaurants or hotels from following our civil rights
3961 laws in the 1960s, and it cannot do so today.

3962 RFRA explicitly contemplates that Congress would exempt
3963 certain laws from its application. The clarifying language
3964 that is in the Equality Act is necessary to ensure that
3965 courts do not misinterpret the intended interaction between
3966 RFRA and our civil rights laws. RFRA will still be available
3967 to address burdens on religious beliefs and practices in
3968 other contexts. In 2006, a Native American pastor won the
3969 right to use eagle feathers in religious ceremonies even
3970 though possession of the feathers violated Federal law. In

3971 2014, a Sikh woman won a settlement that resulted in the
3972 Federal Government changing its policies to ensure that
3973 Federal employees who are Sikh have the right to carry an
3974 article of their faith, which looks like a blunt knife, into
3975 Federal buildings.

3976 So those accommodations are available, and any
3977 individual or organization that is concerned that their
3978 religious beliefs or practices are being unjustly burdened
3979 will retain the right, of course, to bring a claim under the
3980 First Amendment. But members should recognize that there are
3981 a number of religious exemptions which already exist in the
3982 law. Those same exemptions will apply with application to
3983 the Equality Act. There will be no greater or no lesser
3984 protections for those categories of discrimination based on
3985 sexual orientation or gender identity.

3986 So, for example, there is an exemption in public
3987 accommodations for private clubs and other establishments
3988 that are not open to the general public, and the Equality Act
3989 does not amend this exemption in any way, and that is
3990 typically how houses of worship are characterized.

3991 The Equality Act, also there are a number of ministerial
3992 exemptions that are well established that relate to
3993 employment practices of religious organizations, and again
3994 this exemption applies to more than just those who formally
3995 hold the title of minister but also, for example, can include

3996 cemetery employees who organize religious services, theology
3997 professors and church music directors, for example.

3998 So those exemptions exist, they remain in place, and the
3999 Equality Act does not do anything to change that.

4000 Religious entities are free to discriminate on the basis
4001 of religion when making decisions regarding employment or who
4002 may receive services from their programs, and are free to
4003 determine who is a member of their congregation or respective
4004 faith. So those protections are in place.

4005 Mr. Gohmert, I can assure you, I come from a state that
4006 claims responsibility for the free exercise of religion in a
4007 very famous letter between George Washington and the Hebrew
4008 Congregation of Toro Synagogue, the oldest synagogue in North
4009 America, where the President reassured the congregation that
4010 they would be able to practice their religion in this new
4011 country of America. So it is a responsibility I take
4012 seriously, and this legislation does nothing to impede the
4013 free exercise of religion, and all of the exemptions that
4014 exist in law and all the other categories, religious
4015 organizations and activities, remain in place.

4016 And with that, I yield back.

4017 So I would ask that you defeat the amendment.

4018 Chairman Nadler. I am glad the gentleman clarified the
4019 point.

4020 The gentleman from --

4021 Mr. Johnson of Louisiana. Louisiana.

4022 Chairman Nadler. -- Louisiana. For what purpose does
4023 the gentleman seek recognition?

4024 Mr. Johnson of Louisiana. Move to strike the last word.

4025 Chairman Nadler. The gentleman is recognized.

4026 Mr. Johnson of Louisiana. Mr. Chairman, I do appreciate
4027 your work on RFRA. I appreciate the quotation that was cited
4028 and what you and other members of Congress said back then,
4029 and unlike anyone else, I believe, on this committee, I
4030 actually devoted almost 20 years of my life in the courts as
4031 a defender of religious freedom. I litigated these cases.
4032 This is not theory to me. I have stood in front of Federal
4033 judges who have told me that sincerely held religious beliefs
4034 were a mere ruse, and they ruled against this death by a
4035 thousand cuts that Congressman Gohmert is referring to. I
4036 was counsel in some of those cases that we lost.

4037 I just want to say this in support of Congressman
4038 Gohmert's amendment. I think it is critically important that
4039 in spite of all the assurances and the flowery language and
4040 everything we have heard here today, in spite of what may
4041 indeed be your good-faith intentions, you and Congressman
4042 Cicilline and others, the courts are going to pay no heed
4043 whatsoever to your legislative intent if the plain language
4044 of the bill strikes this out.

4045 If you take RFRA out of the equation, it will never be

4046 inserted again, and the reason that RFRA is so important is
4047 exactly what you have said in your own words over the years.
4048 Why take it out of this? Why do that?

4049 I think that some of the supporters of this legislation
4050 know that this would be used in an appropriate manner if this
4051 thing was ever to become law, which I pray it is not, and I
4052 do not think there is a legitimate chance that it will be.
4053 But if it were, in theory, there are sincerely held religious
4054 beliefs that are valid and worthy of defense that RFRA
4055 protects. That is why the legislation has been so important.
4056 That is why we have tried to defend it in the courts over the
4057 years. There is absolutely no reason to take it out of here.

4058 So I can go on about this all afternoon, but this has
4059 already been a very long hearing. I just want to tell you,
4060 from my own experience, this is not a theoretical threat.
4061 This is a very real thing. Religious liberty is our first
4062 freedom listed in the Bill of Rights, and the reason it is
4063 there is because the founders understood it is essential to
4064 who we are not only as Americans but as human beings, and
4065 that is something that we have to jealously guard and
4066 protect. It is part of the premise and the foundation of our
4067 nation, and it is indeed in great jeopardy today. The facts
4068 are the facts. As John Adams said, facts are stubborn
4069 things.

4070 So with all that said, I strongly support this

4071 amendment. I cannot imagine that anyone would not, and I
4072 yield back.

4073 Chairman Nadler. The gentleman yields back.

4074 For what purpose does the gentle lady from Texas seek
4075 recognition?

4076 Ms. Jackson Lee. Strike the last word.

4077 Chairman Nadler. The gentle lady is recognized.

4078 Ms. Jackson Lee. Let me express my understanding and
4079 appreciation for the comments made by the gentleman from
4080 Texas and the gentleman, Mr. Johnson, who has just spoken.

4081 Let me begin by saying this morning I started the day at
4082 a meeting with faith leaders, and the crux of our comments
4083 and the reason we were meeting is to indicate the importance
4084 of eliminating hate in this nation, and we were from many
4085 different backgrounds and, I would imagine, many different
4086 faiths. But we knew that hate was eating at the core of this
4087 country.

4088 In addition, as I listened to my colleagues, I know that
4089 they were speaking to state actions or issues that may have
4090 been impacted by public activities or Federal funding. I
4091 think if we read the section on the Religious Freedom
4092 Restoration Act, it goes to the specific issues covered in
4093 this legislation, which go to the overt discriminatory
4094 practices that anyone who is standing against hate would not
4095 want to activate.

4096 And that is what I think is the difference. I have to
4097 believe that people of faith, no matter what their faith,
4098 when they encounter what the actual beliefs are, they will
4099 know that it is premised on love. They may distort it, but
4100 every faith doctrine that I have seen has some measure of
4101 love and respect in it.

4102 So I would make the point that I do not think the basic
4103 freedoms are being denied, or your rights to act on your
4104 faith. So I would like to yield to the gentleman, the author
4105 of the legislation. I know that he just eloquently
4106 delineated his thoughts and recognize that he comes from a
4107 state that covets and respects religious freedom. I come
4108 from a very unique faith that depends upon religious freedom,
4109 or we would not exist. I have the capacity to recognize that
4110 the premise of my faith and others is based on love.

4111 So I would like to state, Mr. Cicilline, as a senior
4112 member of this committee, I was here when this committee
4113 marked up and the House passed H.R. 1592, the Local Law
4114 Enforcement Hate Crimes Prevention Act, which I was proud to
4115 cosponsor, to amend, and to support.

4116 I recall that during consideration of that legislation,
4117 some opponents claimed that a bill outlawing hate-motivated
4118 acts of violence against persons because of their race or sex
4119 or religion or ethnicity somehow would abridge freedoms of
4120 speech and religion protected by the First Amendment. That

4121 was absolutely not true.

4122 The First Amendment protects speech and expressive
4123 conduct. The Equality Act only prohibits the discriminatory
4124 conduct, not speech or religious belief, which is not
4125 protected by the First Amendment. If they wish, any person
4126 will continue to be free to say or believe things that you
4127 and I and the LGBTQ community might find offensive, and be
4128 able to act within the confines of their own religious
4129 jurisdiction. This is because H.R. 5 only prohibits
4130 discriminatory conduct, conduct that would be borne in hate,
4131 conduct and action in public accommodations, public
4132 facilities, education, Federal funding, employment, housing,
4133 or equal credit opportunity based on sex, gender, identity,
4134 and sexual orientation.

4135 Does the gentleman agree with me nothing in the pending
4136 legislation, particularly the provision in Section 9 as it is
4137 referenced in the manager's amendment, referencing the
4138 Religious Freedom Restoration Act of 1993, prohibits the
4139 lawful expression of one's deeply-held religious beliefs?

4140 Mr. Cicilline. If the gentlelady --

4141 Ms. Jackson Lee. Yes, I would be happy to yield to the
4142 gentleman.

4143 Mr. Cicilline. Yes, that is correct.

4144 Ms. Jackson Lee. I think that one sentence can be
4145 utilized, and I have never seen a court reject legislative

4146 history. And so I thank you for that clarification and for
4147 your leadership in shepherding this landmark legislation.
4148 But more importantly, I don't want this bill to pass as if it
4149 is proposing hate against anyone or a denial of someone's
4150 rights. It is called the Equality Act because it is
4151 uplifting and adhering to promoting the rights of all
4152 Americans. With that, I yield back.

4153 Chairman Nadler. The gentlelady yields back. Who else
4154 seeks recognition?

4155 Mr. Collins. Mr. Chairman?

4156 Chairman Nadler. For what purpose does the gentleman
4157 seek recognition?

4158 Mr. Collins. I move to strike the last word.

4159 Chairman Nadler. The gentleman is recognized.

4160 Mr. Collins. Thank you, Mr. Chairman. I support the
4161 gentleman's amendment and yield to the gentleman from Texas
4162 as much time as he may need.

4163 Mr. Gohmert. I thank my friend from Georgia, and I
4164 certainly appreciate my friend from Texas and the reference
4165 to love and hate. It is difficult for some who are not
4166 Christians, for example, to understand how a true Christian
4167 believer can have a strong disagreement with someone else,
4168 very strong disagreement, and still love them and be willing
4169 to jump in front of a bullet to save them.

4170 Mr. Cicilline. Will the gentleman yield?

4171 Mr. Gohmert. No, I will not. This is too important. I
4172 don't want to be interrupted. And so I appreciate the
4173 reference to love. I have been amazed on the national stage
4174 and here in the Federal government how Christians can be
4175 demonized and Christianity can be claimed, as even some in
4176 the U.S. Civil Rights Commission can say, oh, they are a big
4177 hate group threat, when actually that is a perversion of what
4178 real Christianity is. It is a religion based on love. God
4179 so loved the world, He gave His Son. His Son so loved the
4180 world, He gave his life.

4181 And so there are great perversions going on, and what I
4182 have heard from so many of my African-American minister
4183 friends is they are amazed at how someone can take a non-
4184 immutable difference and compare it to their immutable
4185 difference. Some of my friends say, I can't change my skin
4186 color. I mean, I am who I am, and yet one day someone can
4187 truly believe that though they have all the male parts, they
4188 are a woman. And there is a Christian friend I love to
4189 death. He has been a man. He has been a woman. He is a man
4190 again physically, and I love the guy.

4191 But that is not an immutable difference when someone can
4192 say today I really feel like I am a woman today though I have
4193 male parts, and so I am going to go out and I am going to win
4194 this race against women today. And who knows, maybe later
4195 on I will feel like a man, but today. That is not an

4196 immutable difference, and the Supreme Court has discussed
4197 those. And I appreciate my friend's earlier reference to my
4198 late friend, Justice Scalia. He was big on discussing
4199 immutable differences, and that we do not confuse and compare
4200 and intertwine immutable differences from those that can be
4201 changed day-to-day, even honestly changed day-to-day.

4202 And having read the summary of the most thorough
4203 investigation, survey, study ever done into those who have
4204 actually had sex change operations, over 30 years, to me it
4205 seems an act of love to want to encourage someone to be very
4206 careful in going down that road because you are 20 times more
4207 likely to kill yourself if you go through this process. That
4208 is out of love. It is out of a caring sense. And so to come
4209 in and through words on a page say we with this equality bill
4210 are now going to equate differences that can be changed day-
4211 to-day with those that can't and give them the same rights is
4212 a very dangerous slippery slope, and we are already sliding.

4213 So I would encourage my colleagues, let's don't
4214 eliminate the application of religious freedoms in a bill
4215 that does equate immutable differences with non-immutable
4216 differences. And I yield back.

4217 Chairman Nadler. The gentleman yields back.

4218 Mr. Johnson of Georgia. Mr. Chairman?

4219 Chairman Nadler. For what purpose does the gentlelady
4220 from Georgia seek recognition?

4221 Mrs. McBath. Thank you, Mr. Chairman. I move to strike
4222 the last word. You know, I think some people --

4223 Chairman Nadler. The gentlelady is recognized.

4224 Mrs. McBath. I am sorry. I am jumping the gun. I
4225 think some people understand or misunderstand what LGBTQ
4226 equality really means for people of faith. And trust me, I
4227 am a woman of deep, very devout faith. And while there are
4228 disagreements about Christianity on many different issues,
4229 there is agreement when it comes to how we are called to
4230 treat our neighbor. We are called to love our neighbor as we
4231 would love ourselves.

4232 And in order for us to love one another, we have to
4233 first make sure that we are treating everyone with dignity
4234 and respect, making sure that each of us is free from
4235 discrimination. Of course Americans have many different
4236 religions and beliefs, but the Public Religion Research
4237 Institute found that a majority of people from each religion
4238 that they polled supported non-discrimination protections for
4239 LGBTQ people, and people not affiliated with any religion did
4240 also. And in spite of our differences, in a country that
4241 encompasses many, many beliefs, we have common ground in a
4242 desire to be treated with dignity. And our neighbors deserve
4243 that same dignity, no matter who they are.

4244 And so this bill does not change existing civil rights
4245 exemptions for houses of worship, such as allowing religious

4246 groups full discretion in choosing their ministers. And for
4247 these reasons, I oppose this amendment, and I yield back my
4248 time.

4249 Mr. Johnson of Georgia. I move to strike --

4250 Chairman Nadler. For what purpose does the gentleman
4251 from Georgia seek recognition?

4252 Mr. Johnson of Georgia. I move to strike the last word.

4253 Chairman Nadler. The gentleman is recognized.

4254 Mr. Johnson of Georgia. I speak in opposition to the
4255 amendment. And on behalf of my LGBTQ brothers and sisters, I
4256 just want to say that I believe that we are all human beings,
4257 and we are all equal. And I don't think that it is
4258 impossible that a male spirit can manifest life in a female
4259 body. And if that should happen, it is not up to me or my
4260 personal convictions to condemn that person to maintain the
4261 house or the temple that they were born in. If they want to
4262 make alterations to the temple, that is a personal choice
4263 that they make.

4264 But regardless of that personal choice, they are still
4265 my brother and my sister, and I still love them, and I treat
4266 them as equals. I am no better than anyone else, and,
4267 therefore, I don't have the right to judge them for what they
4268 do, particularly when it is with their own body. I don't
4269 have that right to judge them in any way. I just have to
4270 accept them as who they are and love them as one of, in

4271 Christian parlance, one of God's children.

4272 I mean, that is what it is all about. It is about love
4273 and acceptance and getting over our own hang-ups. We should
4274 not let our hang-ups impose our beliefs on others. And so I
4275 just want to say that I support the underlying legislation.
4276 I believe that it is important that all people in America
4277 have protection of the civil rights inured to all of us that
4278 are protected by law. There is nobody whose civil rights
4279 should be left out, including Muslims, Hindus, Buddhists,
4280 Wiccans, any religious group, including Christians. I think
4281 we all should have protection, equal protection under the
4282 law.

4283 And this legislation is a long time coming, but it is
4284 necessary, and we need to do it today. And we don't need to
4285 confuse it with anything else because, after all, Christians
4286 have adequate protections in this country. It is the major
4287 religion in this country. Most people in this country are
4288 Christians, and they like to say that this is a Christian
4289 Nation, but this is a Nation for all religious faiths. And
4290 with that, I will yield back.

4291 Chairman Nadler. The gentleman has yielded back. The
4292 question occurs on the amendment.

4293 All in favor of the amendment will say aye?

4294 Opposed, nay?

4295 The amendment is not agreed to.

4296 Mr. Gohmert. I ask for the ayes and nays.

4297 Chairman Nadler. The ayes and nays. You request a
4298 recorded vote?

4299 Mr. Gohmert. I ask for a recorded vote, a roll call.

4300 Chairman Nadler. A roll call vote is requested. The
4301 clerk will call the roll.

4302 Ms. Strasser. Mr. Nadler?

4303 Chairman Nadler. No.

4304 Ms. Strasser. Mr. Nadler votes no.

4305 Ms. Lofgren?

4306 Ms. Jackson Lee?

4307 Mr. Cohen?

4308 Mr. Johnson of Georgia?

4309 Mr. Johnson of Georgia. No.

4310 Ms. Strasser. Mr. Johnson of Georgia votes no.

4311 Mr. Deutch?

4312 Ms. Bass?

4313 Mr. Richmond?

4314 Mr. Jeffries?

4315 Mr. Cicilline?

4316 Mr. Cicilline. No.

4317 Ms. Strasser. Mr. Cicilline votes no.

4318 Mr. Swalwell?

4319 Mr. Lieu?

4320 Mr. Lieu. No.

4321 Ms. Strasser. Mr. Lieu votes no.
4322 Mr. Raskin?
4323 Ms. Jayapal?
4324 Ms. Jayapal. No.
4325 Ms. Strasser. Ms. Jayapal votes no.
4326 Mrs. Demings?
4327 Mrs. Demings. No.
4328 Ms. Strasser. Mrs. Demings votes no.
4329 Mr. Correa?
4330 Mr. Correa. No.
4331 Ms. Strasser. Mr. Correa votes no.
4332 Ms. Scanlon?
4333 Ms. Scanlon. No.
4334 Ms. Strasser. Ms. Scanlon votes no.
4335 Ms. Garcia?
4336 Ms. Garcia. No.
4337 Ms. Strasser. Ms. Garcia votes no.
4338 Mr. Neguse?
4339 Mr. Neguse. No.
4340 Ms. Strasser. Mr. Neguse votes no.
4341 Mrs. McBath?
4342 Mrs. McBath. No.
4343 Ms. Strasser. Mrs. McBath votes no.
4344 Mr. Stanton?
4345 Mr. Stanton. No.

4346 Ms. Strasser. Mr. Stanton votes no.
4347 Ms. Dean?
4348 Ms. Dean. No.
4349 Ms. Strasser. Ms. Dean votes no.
4350 Ms. Mucarsel-Powell?
4351 Ms. Escobar?
4352 Mr. Collins?
4353 Mr. Collins. Yes.
4354 Ms. Strasser. Mr. Collins votes yes.
4355 Mr. Sensenbrenner?
4356 Mr. Chabot?
4357 Mr. Gohmert?
4358 Mr. Gohmert. Aye.
4359 Ms. Strasser. Mr. Gohmert votes aye.
4360 Mr. Jordan?
4361 Mr. Jordan. Yes.
4362 Ms. Strasser. Mr. Jordan votes yes.
4363 Mr. Buck?
4364 Mr. Ratcliffe?
4365 Mrs. Roby?
4366 Mrs. Roby. Aye.
4367 Ms. Strasser. Mrs. Roby votes aye.
4368 Mr. Gaetz?
4369 Mr. Johnson of Louisiana?
4370 Mr. Johnson of Louisiana. Aye.

4371 Ms. Strasser. Mr. Johnson of Louisiana votes aye.

4372 Mr. Biggs?

4373 Mr. McClintock?

4374 Mr. McClintock. Aye.

4375 Ms. Strasser. Mr. McClintock votes aye.

4376 Mrs. Lesko?

4377 Mr. Reschenthaler?

4378 Mr. Cline?

4379 Mr. Cline. Aye.

4380 Ms. Strasser. Mr. Cline votes aye.

4381 Mr. Armstrong?

4382 Mr. Steube?

4383 Mr. Steube. Aye.

4384 Ms. Strasser. Mr. Steube votes aye.

4385 Mr. Raskin. Mr. Chairman --

4386 Chairman Nadler. The gentleman from Maryland?

4387 Ms. Strasser. You are not recorded.

4388 Mr. Raskin. I vote no.

4389 Ms. Strasser. Mr. Raskin votes no.

4390 Chairman Nadler. The gentlelady from Texas?

4391 Ms. Jackson Lee. Mr. Chairman, how am I recorded?

4392 Ms. Strasser. Ms. Jackson Lee, you are not recorded.

4393 Ms. Jackson Lee. Nay.

4394 Ms. Strasser. Ms. Jackson Lee votes nay.

4395 Chairman Nadler. The gentleman from Florida?

4396 Mr. Deutch. No.

4397 Ms. Strasser. Mr. Deutch votes no.

4398 Chairman Nadler. Is there anyone else who hasn't voted
4399 who wishes to vote?

4400 The gentleman from Tennessee?

4401 Mr. Cohen. No.

4402 Ms. Strasser. Mr. Cohen votes no.

4403 Chairman Nadler. Tennessee is in the house.

4404 [Laughter.]

4405 Chairman Nadler. Okay. Is there anyone else besides
4406 that one person, whoever it is, who we know is coming, who
4407 hasn't voted who wishes to vote?

4408 [No response.]

4409 Ms. Mucarsel-Powell. No.

4410 Ms. Strasser. Ms. Mucarsel-Powell votes no.

4411 Chairman Nadler. Anyone else?

4412 [No response.]

4413 Chairman Nadler. The clerk will report the result.

4414 Ms. Strasser. Mr. Chairman, there are 8 ayes and 18
4415 noes.

4416 Chairman Nadler. The amendment is not agreed to.

4417 Are there any other amendments to the amendment in the
4418 nature of a substitute? The gentleman from California, for
4419 what purpose do you seek recognition?

4420 Mr. McClintock. I have an amendment to the amendment in

4421 the nature of a substitute.

4422 Chairman Nadler. The clerk will report the amendment.

4423 The gentleman is recognized and the clerk will report the
4424 amendment.

4425 Ms. Strasser. Amendment to the amendment in the nature
4426 of a substitute to H.R. 5, offered by Mr. McClintock of
4427 California, add at the end the following: "Section 13, Rule
4428 of Construction, (A) General. Nothing in this act or any
4429 amendment made by this act may be construed or require a
4430 healthcare provider to affirm the self-professed gender
4431 identity of a minor; or (b) Definitions. In this section,
4432 one, the term "minor" means an individual who has not
4433 attained the age of 18 years and who is not emancipated under
4434 the law of the State in which the minor resides; two, the
4435 term "healthcare provider" means (a) any person or entity
4436 required by State or Federal law or regulations to be
4437 licensed, registered, or certified to provide healthcare
4438 services, and being either so licensed, registered, or
4439 certified, or exempt from such requirements by other statute
4440 or regulations; and (b), any person or entity treated as a
4441 healthcare provider, healthcare professional, or healthcare
4442 entity for purposes of State law."

4443 [The amendment of Mr. McClintock follows:]

4444

4445 Chairman Nadler. The gentleman is recognized to explain
4446 his amendment.

4447 Mr. McClintock. Thank you, Mr. Chairman. This
4448 amendment simply allows physicians and other healthcare
4449 professionals to exercise their own medical judgment when
4450 treating a child or adolescent. Under Title VI of the Civil
4451 Rights Act, a healthcare provider must provide their services
4452 without regard to race, color, national origin, or
4453 disability. This would add gender identity. This could
4454 place healthcare providers in legal jeopardy if they were
4455 confronted with a child or adolescent demanding sex
4456 reassignment procedures that in the professional judgment of
4457 the physician would be harmful to that young person.

4458 The definition of "gender identity" in the bill is
4459 purely self-referential. It relies solely on the declaration
4460 of the individual, in this case, a minor. Upon this
4461 declaration, all service providers would be required to
4462 provide their services or face discrimination lawsuits. The
4463 medical profession called upon to provide life-altering
4464 medical procedures for sex assignment on a child would be
4465 pitted between their own best medical judgment and this new
4466 law.

4467 My amendment simply assures that doctors can continue to
4468 use their best medical judgment, give their best professional
4469 advice, and do no harm in prescribing and administering

4470 treatment to a young person who shows up in their office with
4471 a newly-discovered gender without risking prosecution for
4472 gender identity discrimination. The findings and purposes
4473 section of H.R. 5 condemns conversion therapy. Well, what if
4474 a medical professional wants to suggest that a patient
4475 address other psychological problems that the medical
4476 professional comes to understand were the basis for the
4477 original decision to identify with the opposite sex? Would
4478 it be legal for individuals and government programs to help
4479 adolescents through this process? Not under H.R. 5. Such
4480 counseling could be considered conversion therapy or
4481 otherwise constitute discrimination against a person whose
4482 declared identity is the opposite sex.

4483 This amendment simply says nothing in this act shall be
4484 construed to require healthcare providers to affirm the self-
4485 professed gender identity of a minor. If it is unnecessary,
4486 then it doesn't alter the bill. But if it necessary, I
4487 hope that the members of this committee are willing to defer
4488 their judgment to that of the medical professionals who are
4489 treating these children and adolescents.

4490 As one parent's testimonial states, "After recently
4491 talking to a Kaiser pediatrician in Tri-Valley, he advised
4492 that one should tell their kid, 'I love you no matter what,
4493 but let's take this slow, investigate what is going on with
4494 any underlying causes, such as depression, anxiety, eating

4495 irregularities, sleeping irregularities, et cetera, and go
4496 from there.'" Yet H.R. 5 would prohibit taking it slow under
4497 Federal law.

4498 I would beg the majority to listen to Dr. Paul McHugh.
4499 He is a former chief psychiatrist at Johns Hopkins
4500 University, who has administered gender identity programs for
4501 decades. He writes this. He says, "We at Johns Hopkins
4502 University, which in the 1960s was the first American medical
4503 center to venture into sex reassignment surgery, launched a
4504 study in the 1970s comparing the outcomes of transgender
4505 people who had the surgery with the outcomes of those who did
4506 not. Their subsequent psychosocial adjustments were no
4507 better than those who didn't have the surgery. And so at
4508 Hopkins we stopped doing sex reassignment surgery."

4509 He goes on to say, "It now appears that our long-ago
4510 decision was a wise one. A 2011 study of the Karolinska
4511 Institution of Sweden produced the most illuminating results
4512 yet regarding the transgendered, evidence that should
4513 advocate pause. The long-term study, up to 30 years,
4514 followed 324 people who had sex reassignment surgery. The
4515 study revealed that beginning about 10 years after having the
4516 surgery, the transgendered began to experience increasing
4517 mental difficulties. Most shockingly, their suicide
4518 mortality was almost 20-fold above the comparable non-
4519 transgender population."

4520 Let me repeat that so it sinks in. Their suicide
4521 mortality rose almost 20-fold above the comparable non-
4522 transgendered population. Not 20 percent above. Twenty
4523 times above. So let's pause for a moment and consider what
4524 it is the majority is doing. They propose using the full
4525 force of government to order powerful hormone-blocking drugs
4526 to be administered to children at puberty and sex
4527 reassignment surgeries to be performed on adolescents against
4528 the wishes of the parents and against the best judgment of
4529 the healthcare professionals.

4530 If any proponents of this bill deny that this is their
4531 intention, I challenge them to prove it by voting for this
4532 amendment. I yield back.

4533 Chairman Nadler. I thank the gentleman. For what
4534 purpose does the gentleman from Rhode Island seek
4535 recognition?

4536 Mr. Cicilline. I move to strike the last word.

4537 Chairman Nadler. The gentleman is recognized for 5
4538 minutes.

4539 Mr. Cicilline. Thank you, Mr. Chairman. I urge my
4540 colleagues to vote no on this amendment. First, it is not
4541 clear to me actually what the intention is. The amendment
4542 says, "Nothing in this act may be construed to require a
4543 healthcare provider to affirm the self-professed gender
4544 identity of a minor." I don't even know what that means, so

4545 this amendment is very, very unclear.

4546 But let me clear about a couple of things. One is the
4547 notion that children just show up at a doctor's office
4548 seeking gender-affirming surgery without their parents and
4549 just sort of on a fluke fundamentally misunderstands the
4550 journey that an individual goes through to transition. And
4551 so setting that aside for a moment, the Equality Act does not
4552 require any institution or provider to perform any specific
4553 treatment or prohibit them from exercising their medical
4554 judgment.

4555 Patients in consultation with their physicians would be
4556 in charge of their medical care. The Equality Act does not
4557 change that in any way. It simply prohibits discrimination
4558 against individuals and ensures that medical care is not
4559 withheld on the basis of a patient's sex, including their
4560 sexual orientation or gender identity. And obviously people
4561 who have transitioned have a whole range of healthcare needs
4562 that are unrelated to their gender-affirming surgery. And so
4563 we want to be sure that people have access to quality
4564 healthcare.

4565 And the Equality Act doesn't change any of the laws that
4566 exist in most States with respect to parental rights or
4567 medical consent. Parents retain in every jurisdiction in
4568 this country broad control over the healthcare of their minor
4569 children. The Equality Act does not change that. What this

4570 bill does is to ensure that transgender people, including
4571 young people, are not harassed, humiliated, or denied care
4572 because of their gender identity.

4573 Let me give you an example. In 2015, a transgender
4574 young man named Kyler Prescott was relentlessly harassed by
4575 staff during his hospital stay, refusing to recognize his
4576 gender identity by referring to him as a female, and told him
4577 that they could not refer to him as a male because he was
4578 such a pretty girl. Kyler's mother and primary care
4579 providers had him released from the hospital early because
4580 this egregious treatment was worsening his health. And while
4581 we can't know for sure the cause of Kyler's suicide shortly
4582 thereafter, his mom was sure that her son was terribly harmed
4583 by this episode.

4584 And sadly, while this case is an extreme example, such
4585 incidents are not uncommon. The number of individuals from
4586 the transgender community who encounter discrimination in
4587 accessing healthcare is extraordinary and ought not exist.
4588 And so while the amendment I don't think actually achieves
4589 what the sponsor hopes it will achieve, it also is responding
4590 to a problem that the bill doesn't even present. People
4591 retain control over their own healthcare. Doctors will get
4592 to make good medical decisions. No medical facilities will
4593 be required to perform any kinds of care or surgeries or
4594 other health practices.

4595 The only requirement is that if you are providing a
4596 service, you cannot deny it to someone because of their
4597 sexual orientation or gender identity. That ought to be the
4598 law. That is what the Equality Act does. This amendment is
4599 an amendment in search of a problem that just doesn't exist.
4600 And, again, I don't know what it even means to say that a
4601 healthcare provider shall not be required to affirm the self-
4602 professed gender identity. The gender identity of an
4603 individual is determined by that individual, and it is not up
4604 to a healthcare provider to decide differently.

4605 So this is unnecessary, quite dangerous actually. The
4606 Equality Act doesn't change any of the existing laws that
4607 provide parental control, that require good medical judgments
4608 for healthcare decisions. It simply will end discrimination
4609 against transgenders seeking healthcare. I urge defeat of
4610 the amendment and adoption of the underlying bill.

4611 Chairman Nadler. The gentleman from Texas. For what
4612 purpose does the gentleman from Texas seek recognition?

4613 Mr. Gohmert. Strike the last word, Mr. Chairman.

4614 Chairman Nadler. The gentleman from Texas is recognized
4615 for 5 minutes.

4616 Mr. Gohmert. I would yield my time to my friend from
4617 California, Mr. McClintock.

4618 Mr. McClintock. I thank the gentleman, and I just
4619 wanted to point out that I think Mr. Cicilline has answered

4620 his own question. In his exact words, the bill simply
4621 assures that medical attention is not withheld based on
4622 patient gender identity. Let me repeat what he just said.
4623 It assures that medical attention is not withheld based on
4624 patient gender identity. Well, medical attention for patient
4625 gender identity is often sex reassignment surgery. It often
4626 is administering powerful hormone-blocking drugs to children
4627 and adolescents, even if the physician believes that this
4628 will do harm. Under this bill, that physician is placed in
4629 the --

4630 Mr. Cicilline. If the gentleman would yield, I am happy
4631 to answer your question.

4632 Mr. McClintock. -- in the impossible position between
4633 abiding by their own professional judgment and what the law
4634 requires of them. And the gentleman also pointed out that
4635 gender identity is strictly the decision of the individual.
4636 Let me ask the gentleman rhetorically, if the child is five
4637 years old and still believes in the tooth fairy and believes
4638 that they are of an opposite sex, doesn't the physician have
4639 a responsibility, don't the parents have a right to protect
4640 that child if the physician's best medical judgment is that
4641 this is confusion based on factors not involving actual
4642 gender? I yield back.

4643 Mr. Cicilline. I am happy to answer that question you
4644 posed if you are seriously interested in an answer.

4645 Mr. Gohmert. Reclaiming my time, it is important to
4646 note that there are well-trained physicians, including from
4647 Johns Hopkins, who believe that to administer hormone-
4648 blocking drugs that delay puberty, and then later administer
4649 the drugs necessary to make a sex change, that child, whether
4650 being changed to a man or woman, will most likely be sterile
4651 for the rest of his or her life, no matter what changes take
4652 place after the first one. And they believe, therefore, that
4653 it is medical malpractice to start administering a drug to a
4654 minor that may render that child sterile for the rest of the
4655 child's life when they are not of age to make an appropriate
4656 decision.

4657 There are situations where one parent thinks one thing
4658 and one another, and this bill would ensure that whichever
4659 parent wants the sex change is going to win, even if it is
4660 not truly in the best interest of the child in the view of
4661 the best healthcare professionals because we passed a law
4662 that said they don't get to make that call. So that needs to
4663 be considered, and that is why I am voting for the amendment.
4664 I yield back.

4665 Chairman Nadler. I will now recognize myself for 5
4666 minutes, and I will yield such time as he may consume to the
4667 gentleman from Rhode Island.

4668 Mr. Cicilline. Thank you. I just wanted to respond
4669 briefly to the suggestion that somehow the Equality Act

4670 prevents parents from retaining control over healthcare
4671 decisions of minor children. That exists in State law. The
4672 Equality Act does not change that in any way. And with
4673 respect to transition-related services, simply, all the
4674 legislation requires is that you may not discriminate against
4675 individuals in accessing healthcare based on sexual
4676 orientation or gender identity.

4677 It does not obligate a healthcare facility to begin anew
4678 a procedure or medical practice that they don't have. But it
4679 simply says whatever services you have, you may not deny them
4680 to people based on sexual orientation or gender identity,
4681 period. And so there is no reason for this amendment. I
4682 urge defeat of it and ask my colleagues to support the
4683 underlying bill. I will yield back.

4684 Chairman Nadler. Well, let me just say I totally agree
4685 with the gentleman from Rhode Island. The amendment is not
4686 only unnecessary, but it is also unclear. What does it mean
4687 "to affirm the self-professed gender identity of a minor?" A
4688 doctor doesn't affirm anybody's sexual identity. The doctor
4689 may give treatment that he or she regards as appropriate
4690 treatment or not, but all the bill says is he or she may not
4691 discriminate against people in the provision of medical
4692 services based on their sexual identity or their sex or their
4693 race, et cetera, et cetera.

4694 The question occurs on the amendment.

4695 All in favor, say aye?

4696 All against, say no?

4697 The noes have it. The amendment --

4698 Mr. McClintock. Mr. Chairman, a roll call vote.

4699 Chairman Nadler. A roll call is requested. The clerk

4700 will call the roll.

4701 Ms. Strasser. Mr. Nadler?

4702 Chairman Nadler. No.

4703 Ms. Strasser. Mr. Nadler votes no.

4704 Ms. Lofgren?

4705 Ms. Jackson Lee?

4706 Ms. Jackson Lee. No.

4707 Ms. Strasser. Ms. Jackson Lee votes no.

4708 Mr. Cohen?

4709 Mr. Cohen. No.

4710 [Laughter.]

4711 Ms. Strasser. Mr. Cohen votes no.

4712 Mr. Johnson of Georgia?

4713 Mr. Deutch?

4714 Mr. Deutch. No.

4715 Ms. Strasser. Mr. Deutch votes no.

4716 Ms. Bass?

4717 Mr. Richmond?

4718 Mr. Jeffries?

4719 Mr. Cicilline?

4720 Mr. Cicilline. No.

4721 Ms. Strasser. Mr. Cicilline votes no.

4722 Mr. Swalwell?

4723 Mr. Lieu?

4724 Mr. Lieu. No.

4725 Ms. Strasser. Mr. Lieu votes no.

4726 Mr. Raskin?

4727 Ms. Jayapal?

4728 Ms. Jayapal. No.

4729 Ms. Strasser. Ms. Jayapal votes no.

4730 Mrs. Demings?

4731 Mrs. Demings. No.

4732 Ms. Strasser. Mrs. Demings votes no.

4733 Mr. Correa?

4734 Mr. Correa. No.

4735 Ms. Strasser. Mr. Correa votes no.

4736 Ms. Scanlon?

4737 Ms. Scanlon. No.

4738 Ms. Strasser. Ms. Scanlon votes no.

4739 Ms. Garcia?

4740 Ms. Garcia. No.

4741 Ms. Strasser. Ms. Garcia votes no.

4742 Mr. Neguse?

4743 Mr. Neguse. No.

4744 Ms. Strasser. Mr. Neguse votes no.

4745 Mrs. McBath?
4746 Mrs. McBath. No.
4747 Ms. Strasser. Mrs. McBath votes no.
4748 Mr. Stanton?
4749 Mr. Stanton. No.
4750 Ms. Strasser. Mr. Stanton votes no.
4751 Ms. Dean?
4752 Ms. Dean. No.
4753 Ms. Strasser. Ms. Dean votes no.
4754 Ms. Mucarsel-Powell?
4755 Ms. Escobar?
4756 Ms. Escobar. No.
4757 Ms. Strasser. Ms. Escobar votes no.
4758 Mr. Collins?
4759 Mr. Collins. Yes..
4760 Ms. Strasser. Mr. Collins votes yes.
4761 Mr. Sensenbrenner?
4762 Mr. Chabot?
4763 Mr. Gohmert?
4764 Mr. Gohmert. Aye.
4765 Ms. Strasser. Mr. Gohmert votes aye.
4766 Mr. Jordan?
4767 Mr. Buck?
4768 Mr. Ratcliffe?
4769 Mrs. Roby?

4770 Mrs. Roby. Aye.

4771 Ms. Strasser. Mrs. Roby votes aye.

4772 Mr. Gaetz?

4773 Mr. Johnson of Louisiana?

4774 Mr. Johnson of Louisiana. Aye.

4775 Ms. Strasser. Mr. Johnson of Louisiana votes aye.

4776 Mr. Biggs?

4777 Mr. McClintock?

4778 Mr. McClintock. Aye.

4779 Ms. Strasser. Mr. McClintock votes aye.

4780 Mrs. Lesko?

4781 Mr. Reschenthaler?

4782 Mr. Cline?

4783 Mr. Cline. Aye.

4784 Ms. Strasser. Mr. Cline votes aye.

4785 Mr. Armstrong?

4786 Mr. Steube?

4787 Mr. Steube. Yes..

4788 Ms. Strasser. Mr. Steube votes yes.

4789 Mr. Raskin. How have I voted?

4790 Chairman Nadler. The gentleman from Maryland?

4791 Ms. Strasser. Mr. Raskin, you are not recorded.

4792 Mr. Raskin. Vote no.

4793 Ms. Strasser. Mr. Raskin votes no.

4794 Chairman Nadler. The gentleman from Georgia?

4795 Mr. Johnson of Georgia. No.

4796 Ms. Strasser. Mr. Johnson of Georgia votes no.

4797 Chairman Nadler. The gentlelady from Florida?

4798 Ms. Strasser. Ms. Mucarsel-Powell votes no.

4799 Chairman Nadler. Has everyone voted who wishes to vote?

4800 [No response.]

4801 Chairman Nadler. The clerk will report.

4802 Ms. Strasser. Mr. Chairman, there are 7 ayes and 19

4803 noes.

4804 Chairman Nadler. The amendment is not agreed to.

4805 Mr. Johnson of Louisiana. Mr. Chairman?

4806 Chairman Nadler. For what purpose does the gentleman

4807 from Louisiana seek recognition?

4808 Mr. Johnson of Louisiana. I have an amendment at the

4809 desk.

4810 Chairman Nadler. The gentleman has an amendment at the

4811 desk. The clerk will report.

4812 Ms. Strasser. Amendment to the amendment in the nature

4813 of a substitute to H.R. 5, offered by Mr. Johnson of

4814 Louisiana. Add at the end the following.

4815 Chairman Nadler. Without objection, the amendment is

4816 considered as read.

4817 [The amendment of Mr. Johnson of Louisiana follows:]

4818

4819 Chairman Nadler. The gentleman is recognized for 5
4820 minutes to explain his amendment.

4821 Mr. Johnson of Louisiana. Thank you, Mr. Chairman. I
4822 just want to say that this debate, discussion has been
4823 illuminating. It has been interesting. I appreciate my
4824 colleague, Mr. Cicilline. I know his intentions are always
4825 good. But I just want to say that this is the first time in
4826 history, I think, that a bill claiming to break down barriers
4827 based on sex stereotypes codifies those very same stereotypes
4828 as a matter of Federal law. To demonstrate this, you just
4829 have to read the language of the bill.

4830 Again, the definition of "gender identity" in the bill
4831 reads as follows. Let me quote this. "The term 'gender
4832 identity' means the gender-related identity, appearance,
4833 mannerisms, or other gender-related characteristics of an
4834 individual regardless of the individual's designated sex at
4835 birth." As prominent author and gay rights advocate, Andrew
4836 Sullivan, has explained, H.R. 5, this very bill, "doesn't
4837 only blur the distinction between men and women, thereby
4838 minimizing what women see as the oppression of patriarchy and
4839 misogyny, but its definition of 'gender identity' must rely
4840 on stereotypical ideas of what gender expression means.

4841 What, after all, is a gender-related characteristic? It
4842 implies that a tomboy," Andrew Sullivan writes, "who loves
4843 sports is not a girl interested in stereotypically boyish

4844 things, but possibly a boy trapped in a female body. And a
4845 boy with a penchant for Barbies and Kens is possibly a trans-
4846 girl because, according to stereotypes, he is behaving as a
4847 girl would. So instead of enlarging our understanding of
4848 gender expression and allowing maximal freedom and variety
4849 within both sexes, the concept of gender identity actually
4850 narrows it in more traditional and even regressive ways.
4851 What does 'gender-related mannerisms' mean if not
4852 stereotypes?"

4853 Again, that is an LGBTQ advocate who says they have real
4854 problems with the language of this bill. So the definition
4855 of H.R. 5 refers explicitly to gender-related appearance and
4856 mannerisms, and I just want to know how proponents of H.R. 5
4857 5 would fill in a simple chart if you had to explain those
4858 terms. If H.R. 5 were ever enacted, courts around the
4859 country would have to decide as a matter of law, the judges
4860 would, what "appearances, mannerisms, and characteristics"
4861 applied to men or women. I would suggest that no member here
4862 could compose a comprehensive list of what "gender-related
4863 appearances, mannerisms, and characteristics" is supposed to
4864 refer to. And if you did, you would be called a narrow-
4865 minded bigot. This is inherently the problem.

4866 I would also remind my colleagues that at a recent
4867 markup, our learned colleague, Representative Lofgren, who I
4868 have great respect for, had some very important comments.

4869 She said regarding legislative drafting, I am quoting her,
4870 she said, "We are the Judiciary Committee, and it falls upon
4871 us to craft legislation that is certain and precise so that
4872 judges know what it means. And this is so loosely crafted it
4873 falls short of what we need as a standard for excellence in
4874 terms of legislation." She was talking about another bill.
4875 I would apply it here today.

4876 Indeed, as law professor, Gail Heriot, a commissioner on
4877 the U.S. Civil Rights Commission explains, "The absolute
4878 protection of gender-related mannerisms under H.R. 5 will
4879 allow people to argue such gender-related mannerisms as 'lack
4880 of aggression,'" can't be used in employment decisions, even
4881 when an employer is looking for aggressive sales people, for
4882 example, or any other personality characteristic. Professor
4883 Heriot further explains, "The problem is that huge numbers of
4884 mannerisms and characteristics are gender related, and some
4885 of them are commonly job related.

4886 In the Supreme Court case of *Price Waterhouse v.*
4887 *Hopkins*, the plaintiff in that case alleged that she was not
4888 promoted because she was thought to have an aggressive and,
4889 hence, 'unladylike personality,' but that she would have been
4890 promoted if she had been a male with the same kind of
4891 personality. The Court agreed that if she would have been
4892 promoted if she had been male, she was discriminated against
4893 on the basis of sex within the meaning of Title VII.

4894 By making gender-related characteristics, rather than
4895 sex itself, the subject of anti-discrimination laws, the
4896 proposed law would radically change the law. Right now it is
4897 a violation to fail to promote a woman with an aggressive
4898 personality if a man with the same personality would have
4899 been promoted. But under the proposed law, it would be a
4900 violation to fail to promote someone with a passive
4901 personality if someone with an aggressive personality would
4902 have gotten the job.

4903 But there are lots of jobs for which an aggressive
4904 personality is a legitimate job qualification, just as there
4905 are lots of jobs where a more passive, but nurturing,
4906 personality is the right fit. If the Federal government
4907 prohibits employers from making hiring decisions on the basis
4908 of 'gender-related characteristics,' it will be prohibiting a
4909 lot of rational behavior." That is the end of her analysis
4910 of this.

4911 Look, by the way, I just want to say as an aside to Mr.
4912 Cicilline, he just gave us assurances a few moments ago in
4913 the debate that State law will protect parental rights in
4914 these areas, but that ignores the supremacy clause because,
4915 as we know, Federal law occupies this field. That is the end
4916 of it. I am almost done, Mr. Chairman. We had this previous
4917 debate about RFRA, and I just want to say that this is widely
4918 acknowledged even among the gay rights advocates that this is

4919 a problem, and I just urge my colleagues to support this
4920 amendment and join a bipartisan coalition of people from
4921 across all the political spectrum that oppose this remarkably
4922 ill-considered bill. And I yield back.

4923 Chairman Nadler. The gentleman yields back. I will now
4924 recognize myself in opposition to the amendment. We just
4925 heard a remarkably irrelevant discussion, irrelevant to this
4926 amendment, about the definitions, about all kinds of things.
4927 Let me just make a few remarks.

4928 Existing clinical standards of care for both adults and
4929 minors direct health professionals to identify and address
4930 any other medical or mental health condition and to take a
4931 gradual and thoughtful approach to treatment. Every major
4932 medical association, including the AMA, the American Academy
4933 of Family Physicians, the American Psychiatric Association,
4934 and American Psychological Association, agree on those
4935 clinical standards. The idea that gender identity is simply
4936 a symptom of some other mental illness has been
4937 overwhelmingly rejected by the medical community, and this
4938 consensus in the medical and the scientific community is
4939 enough to render much of what we just heard simply wrong.

4940 And it is also irrelevant to this amendment. This
4941 amendment has nothing to do with anything we were just
4942 talking about. This amendment simply says, "Nothing in this
4943 act or any amendment made by this act may be construed to

4944 deny a parent the right to be involved in their minor child's
4945 medical care." So all this stuff that we just talked about
4946 has nothing to do with the amendment.

4947 The amendment simply says we are not denying a parent
4948 the right to be involved in their minor child's medical care.
4949 Of course not. Like the existing civil rights law it amends,
4950 the Equality Act does not change State laws about parental
4951 rights, child custody, or medical consent, or prevent schools
4952 from having appropriate conversations with students and
4953 families about their needs. The Equality Act does not impact
4954 parents' ability to retain broad control over the healthcare
4955 of their minor children in any respect. It does not change
4956 Federal law in any way to lessen a parent's control over
4957 their kid's medical care. It does not change State law in
4958 any way to lessen parent's control over their kid's medical
4959 care.

4960 There are various State laws that do limit in certain
4961 ways parents' ability. For example, if parents for some
4962 reason refuse authorization for a lifesaving medical
4963 intervention and the child would otherwise die, most States
4964 would permit a court to order that medical intervention. But
4965 in any event, this bill will not affect that or anything else
4966 about the right of a parent to be involved in their minor
4967 child's medical care. Therefore, this amendment is
4968 irrelevant and unnecessary and ought to be defeated. And I

4969 urge its defeat, and I yield to the gentleman from Rhode
4970 Island.

4971 Mr. Cicilline. Thank you, Mr. Chairman. I concur with
4972 your remarks, and one other thing I want to mention. I am
4973 sure this wasn't the intention of the sponsor. But as Mr.
4974 Nadler just explained, in the vast majority of States -- in
4975 fact -- I daresay all States, the parents retain principal
4976 control over the healthcare decisions of their children, not
4977 just the ability to participate, but actually decide
4978 healthcare decisions for their children.

4979 So I think what your amendment will do, and I am sure
4980 this wasn't your intention, it will actually reduce the role
4981 of parents in these important healthcare decisions because
4982 all your amendment says is parents have a right to be
4983 involved. And actually by State law, parents are making
4984 these decisions, and I fear that this amendment would
4985 actually do the opposite of what you are attempting to do.
4986 It won't secure the right of parents to make those healthcare
4987 decisions which exist in State law, but it will say as a
4988 matter of Federal law, you can only be involved.

4989 So I urge you to vote against your own amendment or
4990 withdraw it because I think it is going to have the opposite
4991 consequence. It is not necessary because there are existing
4992 State laws. And I yield back to the chairman, and thank you
4993 for yielding.

4994 Chairman Nadler. I yield back except to say that I
4995 agree with the gentleman from Rhode Island. I yield back.
4996 Well, I urge everyone to vote against the amendment, and I
4997 yield back. For what purpose does the gentleman from Texas
4998 seek recognition?

4999 Mr. Gohmert. I rise in support of the amendment.

5000 Chairman Nadler. The gentleman is recognized.

5001 Mr. Gohmert. Thank you, Mr. Chairman. And I do support
5002 the amendment, and I think it is well thought out. There are
5003 too many situations where this bill will likely allow
5004 outsiders to have their judgment applied if the parents are
5005 not willing to have a sex change regime of hormones begin,
5006 and we are hearing about these kind of things already taking
5007 place. But I would yield the rest of my time to my friend
5008 from Louisiana.

5009 Mr. Johnson of Louisiana. I thank the gentleman from
5010 Texas for yielding. The reason I spent my time quoting
5011 Andrew Sullivan is because he is an advocate on the side of
5012 the author of this bill who says the bill is problematic, and
5013 it causes all types of confusion, and will lead ultimately to
5014 legal chaos in the context of the parental rights issue and
5015 in others. This is not a theoretical threat. We know that
5016 there are State laws that supposedly guarantee the parental
5017 rights, but those are being eviscerated every day. The
5018 rights, for example, to home school your children has been

5019 under assault for the last 20 or 30 years.

5020 The rights in this arena for medical decisions is
5021 certainly being jeopardized. This is not theoretical. I
5022 have got an article here that just came out today. A British
5023 Columbia supreme court judge orders a father to stop publicly
5024 discussing the case of his child after finding some of his
5025 actions exposed the child to significant harm. This is a
5026 legal dispute between the trans-child and the father, and
5027 literally today the court has ruled that the father is
5028 forbidden from trying to persuade his child to abandon
5029 treatment. This is a 9-year-old, a treatment and sex change
5030 operation, and he can no longer address his own child by his
5031 name or refer to him as a girl?

5032 Chairman Nadler. Would the gentleman yield for a
5033 question? Would the gentleman yield for a question, a very
5034 quick question?

5035 Mr. Johnson of Louisiana. I understand you are going to
5036 say this is from Canada. I am saying that this is a trend
5037 worldwide. It is a trend that is happening here. And you
5038 can smirk about it. You can laugh about it. I have been in
5039 court litigating the cases of parental rights. I know that
5040 of which I speak, and I am telling you there are advocates on
5041 your side who understand these same threats in the medical
5042 context, in the parental rights context, and in all these
5043 others, and that is why these are relevant. And I will

5044 yield.

5045 Chairman Nadler. I was just going to ask when British
5046 Columbia was admitted to the Union.

5047 Mr. Cicilline. Will the gentleman yield?

5048 Mr. Johnson of Louisiana. I will. I will.

5049 Mr. Cicilline. So, you know, with all due respect to
5050 Andrew Sullivan, he is neither a lawyer, a doctor, or an LGBT
5051 advocate. He happens to be gay, but there are hundreds of
5052 businesses, many, many organizations, and lots of members of
5053 the LGBT community who have publicly endorsed the Equality
5054 Act. It has overwhelming support in our community. You
5055 know, in fairness, Andrew Sullivan is one person who is a
5056 writer, but does not speak for the LGBTQ community.

5057 But with respect, again I just would repeat the
5058 existence of State protections that confer on parents
5059 principal control over the healthcare decisions of their
5060 children does not change. And so the amendment is
5061 unnecessary and may end up diminishing the right of parents
5062 to actually play a more active role in decision-making as it
5063 relates to the healthcare of their children. So I urge
5064 defeat of the amendment.

5065 Mr. Johnson of Louisiana. In the time I have --

5066 Chairman Nadler. You have the time, yeah. I am sorry.

5067 Mr. Johnson of Louisiana. In the time I have remaining,
5068 I would just respond. Look, I do not dispute, I don't

5069 question the good intentions of the author or my colleagues
5070 who support this. I just believe, and many of us believe,
5071 take Andrew Sullivan out of the equation. There are an equal
5072 number of people who have grave concerns about the Pandora's
5073 box that we open with legislation like this. I appreciate
5074 that you gave it due consideration in drafting and all that,
5075 and I tip my hat to you, my friend, Congressman Cicilline.

5076 But I am telling you that this is a road that will lead
5077 to legal chaos, and there are many examples we could cite. I
5078 understand what is going to happen here. We know that the
5079 votes are counted. I am just grateful the Senate is not
5080 going to take this up because I think that we are heading
5081 down a road here that everyone in this country would regret.
5082 And with that, I will yield back.

5083 Chairman Nadler. I thank the gentleman. For what
5084 purpose does the gentleman from Florida seek recognition?

5085 Mr. Deutch. I move to strike the last word.

5086 Chairman Nadler. The gentleman is recognized.

5087 Mr. Deutch. Thank you, Mr. Chairman. I oppose the
5088 amendment, but I would like to talk about this legislation
5089 like this. I would like to talk about this legislation.
5090 Since 2015, a same-sex couple can legally marry in any State
5091 in America. That is amazing achievement that we should be
5092 proud of, one that took far too long to reach. But still in
5093 2019, in about half the States, a same-sex couple that gets

5094 married could be denied a hotel stay or kicked out of a
5095 restaurant while on their honeymoon, and be evicted and lose
5096 their job when they return home all because they were free to
5097 marry the person they love, a right protected under the
5098 Constitution.

5099 That highlights a glaring problem that this legislation
5100 seeks to address, one that we have had since our Nation's
5101 founding. We are leaving Americans out based on who they
5102 are. The pursuit of the American Dream isn't easy for
5103 anyone. Americans work hard to get an education, to get a
5104 job, to pursue a career, to make a home, to build a family,
5105 and to retire securely, and it just unacceptable to allow
5106 discrimination to push those dreams further out of reach or
5107 even to make them impossible. It is not fair. It is not
5108 just. It is not right. And allowing discrimination to
5109 continue does not live up to our core American values.

5110 It is why the Civil Rights Act, the Americans with
5111 Disabilities Act, and many State and local non-discrimination
5112 laws across the country protect Americans from unfair
5113 treatment based on their race, the color of their skin, where
5114 their family is from, their sex, their age, disability, and
5115 veterans status in the places that we all must visit in our
5116 daily lives in pursuit of our dreams. The Equality Act will
5117 address the experiences of discrimination that Americans
5118 continue to face in the 21st century. I applaud my

5119 colleague, Representative Cicilline, for his work drafting
5120 this legislation and as a champion for the civil rights of
5121 all Americans.

5122 Now, Mr. Chairman, I would like to bring up an issue
5123 that you and Representative Cicilline and some other members
5124 are also considering as we go through this process. Freedom
5125 of religion is a bedrock that is fundamental to our country.
5126 That is why it is already protected by the First Amendment to
5127 the Constitution and why we must ensure that the Equality Act
5128 doesn't create an unintended consequences for religious
5129 institutions. And I know that everyone here is united in the
5130 belief that we must preserve access to the National School
5131 Lunch Program for young students in parochial schools who are
5132 facing hunger, aid for FEMA after a natural disaster, houses
5133 of worship, and the security resources that guard against
5134 terror threats under the Nonprofit Security Grant Program for
5135 religious institutions who have found themselves under ever-
5136 escalating risk of violence.

5137 Saturday's shooting in Poway is a tragic reminder of the
5138 urgent need for these security grants, and mitigating against
5139 the threats of violence against Jewish, Muslim, Christian,
5140 and other worshippers needs to continue to be a funding
5141 priority for all of us. The current framework for
5142 eligibility under Title VI allows religious institutions to
5143 maintain eligibility for security grants without regard to

5144 their religious activities. This needs to continue to be the
5145 standard, and I trust and know the chairman is committed to
5146 making that crystal clear so that there can be no
5147 interpretation of the Equality Act or the underlying civil
5148 rights law contrary to the intent of Congress to retain the
5149 standard. I look forward to working through these issues
5150 while respecting the delicate balance and thoughtful effort
5151 that has gone into crafting this legislation over the past
5152 years.

5153 Equality and human rights must be guaranteed to every
5154 American citizen, no matter their race, their sex, their
5155 national origin, sexual orientation, or gender identity. All
5156 people have the right to live their daily lives free of
5157 discrimination. The Equality Act is an important step
5158 forward, and I am proud to be a part of the majority of this
5159 committee, the majority of the House of Representatives, and
5160 the majority of the American people standing with the LGBTQ
5161 community in support of it today.

5162 I would close, Mr. Chairman, just by acknowledging what
5163 our colleague just said, and that is this. My friends on the
5164 other side of the aisle should take no comfort in the
5165 decisions made, that may be made, by the Senate Majority
5166 Leader. The fact of the matter is that the majority of the
5167 American people understand that there is no place for
5168 discrimination of any kind in our society. And while

5169 political decisions may be made to hold back this important
5170 legislation, it is the American people who will hold those
5171 accountable who stand in the way of the advances that the
5172 Equality Act will necessarily bring to America. And I am so
5173 grateful to you, Mr. Chairman, for your bringing this forward
5174 today and, again, to my friend, Mr. Cicilline, for his
5175 incredible efforts to help us reach this point. And I yield
5176 back the balance of my time.

5177 Chairman Nadler. I thank the gentleman.

5178 The question occurs on the amendment. The question
5179 occurs on the amendment.

5180 All those in favor will say aye.

5181 Opposed, no?

5182 The amendment is not agreed to.

5183 Mr. Steube. Go ahead.

5184 Chairman Nadler. Are there any other amendments? The
5185 gentleman from Florida. For what purpose does the gentleman
5186 from Florida seek recognition?

5187 Mr. Steube. I have an amendment at the desk, Mr.

5188 Chairman.

5189 Chairman Nadler. The clerk will report the amendment.

5190 Ms. Strasser. Amendment to the amendment in the nature
5191 of a substitute to H.R. 5, offered by Mr. Steube of Florida.
5192 Add at the end the following: "Section 13, Rule of
5193 Construction. Nothing in this act or any amendment made by

5194 this act may be construed to require a biological female to
5195 face competition from a biological male in a sporting event."

5196 [The amendment of Mr. Steube follows:]

5197

5198 Chairman Nadler. The gentleman is recognized for 5
5199 minutes to explain his amendment.

5200 Mr. Steube. Thank you, Mr. Chairman. This amendment
5201 would make it clear that nothing would require a biological
5202 female to face competition from a biological male in any
5203 sporting event. I want to guarantee that biological women
5204 are not forced to compete against a biological male at all
5205 levels of athletic competition. Science had proven time and
5206 time again that there is a significant performance difference
5207 between biological males and females from puberty onward.

5208 From percentage of lean muscle to heart size, to body
5209 fat, to joint angles, the bodies of men and women are
5210 distinctly unique and produce a vast difference in
5211 performance ability when it comes to certain activities. In
5212 fact, there is an average of 10 to 12 percent performance gap
5213 between elite biological male and female athletes. These
5214 differences are largely due to the large influx of
5215 testosterone males receive during puberty. Science is very
5216 clear here there is no doubt that testosterone is the reason
5217 that biological men as a group perform better than women in
5218 sports. That is why both men and women dope with androgens
5219 that are high in testosterone.

5220 On average, in elite biological male athletes, there is
5221 a 30 times more testosterone presence leading to physical
5222 characteristics that almost guarantees a higher rate of

5223 success in sporting events. Don't take my word for it. Here
5224 are some examples: CeCe Telfer, a biological male who won
5225 three titles in the Northeast 10 championships for women's
5226 track and received the most outstanding track athlete award;
5227 Fallon Fox, a biological male, who shattered female fighter,
5228 Tamikka Brent's, eye socket and gave her a concussion --
5229 Brent said she "never felt so overpowered in her life;" or
5230 Gabrielle Ludwig, a 50-year-old, 6-foot, 8-inch, 230-pound
5231 biological male who led the Mission College women's
5232 basketball team to a national championship with the most
5233 rebounds. The list goes on and on.

5234 I for one don't think it is fair or equal to make young,
5235 biological women compete against biological males. That is
5236 why I am introducing this amendment.

5237 Chairman Nadler. The gentlelady from Washington is
5238 recognized. For what purpose does the gentlelady seek
5239 recognition?

5240 Ms. Jayapal. I seek to oppose this amendment, Mr.
5241 Chairman.

5242 Chairman Nadler. Strike the last word.

5243 Ms. Jayapal. Thank you. Strike the last word.

5244 Chairman Nadler. That is it.

5245 Ms. Jayapal. Mr. Chairman, this amendment is a solution
5246 looking for a problem. Protections against discrimination
5247 based on gender identity and sexual orientation, like those

5248 in the Equality Act, have existed for decades on the State
5249 and local level in the context of public accommodations,
5250 education, as well as under State constitutions, and have
5251 been generally understood to permit separate men's and
5252 women's sports as well as reasonable rules for participation.

5253 These protections have also existed for decades through
5254 interpretation of Federal law, both constitutional equality
5255 guarantees and Title IX, and without any harm to
5256 opportunities for cisgender women and girls. When Ms. Chandy
5257 of the National Women's Law Center was here, she explained on
5258 the record during the committee hearing, "I also want to say
5259 that" -- and this is her quote: "I also want to say that
5260 under similar State laws, schools and athletic associations
5261 have developed approaches that place primary focus on
5262 ensuring equal opportunity for participation for transgender
5263 athletes, while taking into account different contexts for
5264 ages and levels of competition." So there are rules that
5265 govern these areas where experts can figure out how to allow
5266 transgender students to participate equally and without
5267 facing discrimination.

5268 And she went on to say that she was relieved to hear
5269 Professor Coleman, who I believe was a Republican witness,
5270 say that this situation that is being described by this
5271 amendment is actually not a problem. So I go back to what I
5272 started with that this is a solution in search of a problem.

5273 It is based on a hypothetical, and I don't think we can
5274 create laws based on hypotheticals. The Equality Act is not
5275 a men's Title IX. It does expand protections from sex
5276 discrimination under Title VI and Title II of the Civil
5277 Rights Act such that entities that receive Federal funding
5278 and public accommodations would be barred from discriminating
5279 against people based on sex, gender identity, and sexual
5280 orientation in addition to the other protected
5281 characteristics. The courts are split about whether the NCAA
5282 is even covered at all under Title VI.

5283 Nothing in the language of the Equality Act would bar
5284 implementing regulations that allow for the maintenance of
5285 men's and women's athletic activities. As Doriane Coleman
5286 and others note in a recent op-ed, it is through regulation,
5287 not statutory amendment or carve-out, that single-sex
5288 athletic opportunities have been permitted for the remedial
5289 purpose of preserving opportunities for women and girls.
5290 Nothing in the language of the Equality Act would bar
5291 policies at elite levels of competition that serve a remedial
5292 purpose and were tailored appropriately to the maintenance of
5293 women's athletics, the continuation of which are a central
5294 objective of Title IX and the Equality Act.

5295 Questions about what testosterone levels are appropriate
5296 for governing elite sport are questions about
5297 operationalizing and implementing the statute, and they are

5298 relevant for regulatory and sub-regulatory considerations.

5299 As noted above, those regulations would be permissible
5300 under the Equality Act, just as they have been under Title IX
5301 and State and local laws, provided that they do not facially
5302 discriminate without a remedial purpose.

5303 Given the changing science and understanding of trans
5304 and intersex people of hormones and of other factors related
5305 to sport, it would be wholly inappropriate to codify such
5306 rules into statute.

5307 So, Mr. Chairman, I urge a no vote on this amendment.

5308 Chairman Nadler. For what purpose does the gentleman
5309 from Texas seek recognition?

5310 Mr. Gohmert. I rise in support of the amendment.

5311 Chairman Nadler. The gentleman is recognized.

5312 Mr. Gohmert. Thank you, Mr. Chairman.

5313 Our Republican witness -- actually, two witnesses --
5314 people like Martina Navratilova, people who describe
5315 themselves as lesbians, they have indicated it is grossly
5316 unfair, and I think one of the reasons you are not seeing
5317 more female athletes express their opposition to having to
5318 compete against biological males is because they have seen
5319 how people have lost positions, lost jobs, lost board
5320 positions if they have expressed any concern about women
5321 having to compete with biological males, no matter how the
5322 biological male feels -- or what the biological male feels

5323 about his or her gender at the time.

5324 The professor, I believe it was Villanova, that was our
5325 Republican witness, I would hazard a guess that she would not
5326 be our witness in other political issues, but she was very
5327 assertive on the fact that this is a problem. And in fact,
5328 she had a poster that demonstrated, it had the three -- had a
5329 lot of thousands of dots. Three dots were red, and those
5330 indicated the fastest time of first, second, third place
5331 winners in the 2016 Olympics in the female 400-meter dash.

5332 But there were thousands of blue dots, and as she said,
5333 many of those are second-tier male athletes, but as you see,
5334 their times are better than the fastest in the world females
5335 that we have. It is a huge problem, and I recall, she
5336 indicated that even though she was one of the first
5337 beneficiaries of Title IX, getting an athletic scholarship
5338 back I think it was in 1978, if she had to compete with
5339 people who were biological males, she would not be able to
5340 get that type of scholarship.

5341 And we know there were people across the aisle who,
5342 unlike our position, we believe you mean well, they made fun
5343 of our position. Ah, there is nothing to worry about. And
5344 yet what we see over and over, and I think a clear reading of
5345 this bill by a court down the road, if it became law, would
5346 be that you can't restrict the amount of testosterone that an
5347 athlete may or may not have.

5348 That would be ultimately considered to be a violation of
5349 this bill. You are going to end up seeing those things go
5350 away eventually as courts get closer and closer to what this
5351 bill actually says.

5352 So I support the amendment. I think this bill will do
5353 incredible damage to female opportunities that Title IX has
5354 done so much to create, and it has created a level of sports
5355 in women's sports that are, in my opinion, often far more
5356 enjoyable to watch and participate in watching and cheering
5357 than male sports.

5358 I just support the amendment. We need to do this to
5359 save the scholarships, the prizes, the winning positions for
5360 women who are actually biological women to avoid them
5361 competing against people who have an unfair advantage because
5362 of their gender.

5363 I yield back.

5364 Mr. Cicilline. Mr. Chairman, I have a unanimous consent
5365 request.

5366 Chairman Nadler. I thank the gentleman. Unanimous
5367 consent? Yes.

5368 Mr. Cicilline. Yes, I would ask unanimous consent to
5369 put into the record the statement of the women's rights and
5370 gender justice organizations in support of full and equal
5371 access to participation in athletics for transgender people,
5372 signed by all of the leading women's sports organizations,

5373 including the Women's Law Project, the Women's Law Center,
5374 Women Leaders in College Sports, and the Women's Sports
5375 Foundation, among many others.

5376 Chairman Nadler. Without objection, these very
5377 instructive documents will be entered into the record.

5378 [The information follows:]

5379

5380 Chairman Nadler. The gentleman from Georgia is
5381 recognized. For what purpose does the gentleman from Georgia
5382 seek recognition?

5383 Mr. Johnson of Georgia. Move to strike the last word.

5384 Chairman Nadler. The gentleman is recognized.

5385 Mr. Johnson of Georgia. Thank you, Mr. Chairman.

5386 I find it astoundingly ironic that my colleagues on the
5387 other side of the aisle will rise up to protect women's
5388 sports, but yet they would oppose equal pay for women. If
5389 there is someone on the other side who could help me
5390 understand this --

5391 Mr. Gohmert. If the gentleman will yield, I will --

5392 Mr. Johnson of Georgia. Yes, please.

5393 Mr. Gohmert. -- salve your concerns. I am not opposed
5394 to equal pay for women who do equal jobs.

5395 Mr. Johnson of Georgia. Okay. Well, that is one of you
5396 on the other side. I would challenge the others on the other
5397 side to rise up like my friend from Texas and say that they
5398 support equal rights for -- equal pay for equal work for
5399 women.

5400 [No response.]

5401 Mr. Johnson of Georgia. And the silence is stunning.

5402 With that -- with that, I will yield to my friend from
5403 Maryland.

5404 Mr. Raskin. Mr. Johnson of Georgia, thank you.

5405 I just want to add two points that haven't been made yet
5406 about this curious amendment. One is that whether you think
5407 we need an equal rights amendment or you think, as I think
5408 colleagues on both sides of the aisle observed during our ERA
5409 hearing, that progress had been made under the equal
5410 protection clause, and some of my colleagues across the aisle
5411 were saying that the ERA was unnecessary because of the equal
5412 production clause already guarantees equal rights, the way
5413 this amendment is written is it applies only in one
5414 direction.

5415 So you can't require a biological female to face
5416 competition from a biological male. But the reverse isn't
5417 true. You could require a biological male to face
5418 competition from a biological female, which means this
5419 probably violates equal protection in the way that it is
5420 written.

5421 Beyond that, I think written, I think, in such a broad
5422 and loose way that it would forbid even what is described as
5423 a biological female or biological male to oppose each other,
5424 or at least give the biological female the right to assert
5425 rights against it in a coed sporting event. Because it
5426 applies to any sporting event at all.

5427 So, but I think that just might be a reflection of the
5428 fact that this is offered for political purposes and not as a
5429 serious attempt to develop the law.

5430 And I yield back to the gentleman from Georgia.

5431 Mr. Johnson of Georgia. Reclaiming my time, I would
5432 just note the irony of the fact that my friend from Texas
5433 voted against the Lilly Ledbetter Fair Pay Act that was
5434 signed into law in 2009, but I am glad to know that he has
5435 come to the position of change and has decided to support
5436 equal pay for women.

5437 And I would yield to the gentleman.

5438 Mr. Gohmert. Certainly. There were provisions that
5439 didn't make it as clean a bill as you would represent. I
5440 know that was the intent, but the overall bill did not have
5441 what I believe was that effect.

5442 Mr. Johnson of Georgia. Well, I am heartened to know
5443 that my colleague supports the purpose of the bill, which was
5444 to establish equal pay for women for equal work. And with
5445 that, I will yield to my friend from Tennessee.

5446 Mr. Cohen. Thank you, sir.

5447 I have only a brief thing to say, matter to say.

5448 Mr. Gohmert will remember this. Mr. Chabot will remember it.

5449 Mr. Nadler will remember it, and a few others here.

5450 Bobby Riggs. He never came back from the psychological
5451 defeat, losing to a woman. Women can defeat men and did it
5452 in one of the largest, biggest, most watched sports even in
5453 history in the Houston Astrodome in 1973, and Bobby Riggs was
5454 defeated.

5455 Mr. Gohmert. Would the gentleman yield?

5456 Mr. Cohen. He was --

5457 Mr. Gohmert. He was not considered by most of us to be
5458 a top male athlete.

5459 Mr. Cohen. Oh, he certainly was. He was a great
5460 athlete. May his tennis racquet rest in peace.

5461 Chairman Nadler. I object to that slander of Mr. Riggs.

5462 Mr. Gohmert. I would ask unanimous consent to enter an
5463 article into the record from --

5464 Mr. Johnson of Georgia. I will yield back the balance
5465 of my time.

5466 Mr. Gohmert. I am sorry.

5467 Chairman Nadler. Let him -- the gentleman has a
5468 unanimous consent.

5469 Mr. Johnson of Georgia. Oh, I will yield to the
5470 gentleman.

5471 Mr. Gohmert. Well, this is entitled "Transgender
5472 Weightlifter Smashes --"

5473 Chairman Nadler. Wait, wait. The gentleman yields
5474 back. The gentleman is recognized for a unanimous consent
5475 request.

5476 Mr. Gohmert. Unanimous consent to enter an article
5477 entitled "Transgender Weightlifter Smashes Women's World
5478 Record, Sparking Backlash from Olympians," dated May 1, 2019,
5479 12:34 p.m.

5480 Chairman Nadler. Without objection, the document will

5481 be entered into the record.

5482 [The information follows:]

5483

5484 Mr. Chabot. Mr. Chairman?

5485 Chairman Nadler. For what purpose does the gentleman
5486 from Ohio seek recognition?

5487 Mr. Chabot. Move to strike the last word.

5488 Voice. Oh, that is great.

5489 Mr. Chabot. Thank you.

5490 And Mr. Chairman, I would just note that most -- I can't
5491 speak for every Member over here, but I am quite sure that
5492 most Members on this side do support equal pay for women.

5493 I would also note that most of the legislative fixes
5494 that happen around this place oftentimes end up doing more
5495 harm to good, and oftentimes to women as well. And so it is
5496 -- I know that my colleagues on the other side always think
5497 there is a legislative fix. The Government ought to be
5498 involved in everybody's lives in general.

5499 And I would also note that my colleagues on the other
5500 side of the aisle are still, many of them -- I wouldn't say
5501 everybody, but many of them are still talking about in the
5502 tax cuts and jobs bill that only the rich got any tax cuts
5503 when, in fact, 80 to 85 percent of the American people are
5504 paying less taxes than they were previously as a result of
5505 that, about \$2,400 per family of four in my district for
5506 example, in Cincinnati.

5507 So in any event, I could go on, but I will yield the
5508 balance of my time to the gentleman from Florida, Mr. Steube.

5509 Mr. Steube. Thank you for yielding.

5510 I just want to -- since Professor Coleman was brought
5511 up, I just wanted to discuss a recent opinion article that
5512 she authored along with Martina Navratilova and Sanya
5513 Richards-Ross, which specifically argued for the very
5514 amendment that is the amendment that we are discussing that
5515 is my amendment.

5516 And I will quote just a couple of things from the
5517 opinion article, and then I will ask unanimous consent to
5518 place this article on the record.

5519 "We urge lawmakers to pass the bill without abandoning
5520 Title IX, the hugely popular, longstanding carve-out to
5521 existing anti-discrimination law."

5522 She goes on -- the three of them go on to say, "Some
5523 Equality Act advocates argue that this is hyperbole and
5524 outdated stereotype. They say, as the ACLU has, that there
5525 is ample evidence that girls can compete and win against
5526 boys. They are wrong. The evidence is unequivocal that
5527 starting at puberty in every sport except sailing, shooting,
5528 and riding, there will always be significant numbers of boys
5529 and men who will beat the best girls and women in head-to-
5530 head competition. Claims to the contrary are simply a denial
5531 of science."

5532 They also conclude, "We support transgender women and
5533 girls and their right to equality, and we recognize their

5534 personal struggle. We don't worry that boys and men will
5535 feign transgender identity to gain an advantage, but we do
5536 hope that lawmakers won't make the unnecessary and ironic
5537 mistake of sacrificing the enormously valuable social good
5538 that is female sports in their effort to secure the rights of
5539 transgender women and girls."

5540 I would ask unanimous consent to put the opinion
5541 article, "Pass the Equality Act, But Don't Abandon Title IX."

5542 Ms. Jayapal. Would the gentleman yield?

5543 Mr. Steube. Sure.

5544 Ms. Jayapal. Thank you.

5545 I just wanted to clarify that in my comments, I
5546 specifically quoted Professor Coleman saying that this is not
5547 a problem now. I wasn't talking about what her opinion is or
5548 should be. I said she said this is not a problem now.

5549 And my point is we are legislating -- this amendment
5550 seems to be legislating on a hypothetical. It is not a
5551 problem. It is a solution in search of a problem. And so I
5552 still think that it is fine that that is what she thinks, but
5553 the fact is it is not a problem.

5554 Thank you. I yield back to the gentleman.

5555 Mr. Steube. I will reclaim my time. It is a problem,
5556 and I gave you three examples of specific examples where this
5557 has happened. Cece -- and I will repeat it since I have 1:36
5558 to repeat it.

5559 Cece Telfer, a biological male who won three titles in
5560 the Northeastern 10 championships for women's track and
5561 received the most outstanding track athlete award. Fallon
5562 Fox, a biological male who shattered a female fighter,
5563 Tamikka Brent's eye socket and gave her a concussion, Brent
5564 said she "never felt so overpowered in her life."

5565 Gabrielle Ludwig, a 50-year-old, 6'8", 230-pound
5566 biological male who led the Mission College women's
5567 basketball team to a national championship with the most
5568 rebounds. And the very professor that you quote is arguing
5569 in this opinion article that we just gave unanimous consent
5570 to put into the record for this amendment.

5571 With that, I yield back the balance of my time to
5572 Mr. Sensenbrenner.

5573 Chairman Nadler. The gentleman yields back.

5574 The gentlelady from Texas? For what purpose --

5575 Ms. Jackson Lee. Strike the last word.

5576 Chairman Nadler. The gentlelady is recognized.

5577 Ms. Jackson Lee. I appreciate the gentleman's
5578 amendment, but I would argue that I would answer the
5579 Washington Post's article by two -- three very profound women
5580 that we are not going to abandon Title IX. There are a
5581 number of sports organizations that have various methods that
5582 they will utilize. None of that is quashed by the Equality
5583 Act. And in fact, we have not heard a sweeping overwhelming

5584 response from sports organizations, which we would.

5585 Let me just briefly say that in my study of the Equality
5586 Act, it is important to state that 50 percent of the national
5587 LGBTQ community live in States where they may have the right
5588 to marry, but they have no explicit nondiscrimination
5589 protections in other areas of daily life.

5590 In testimony, we heard of couples, individuals being
5591 evicted from housing, fired from jobs once they were
5592 discovered who they were. In most States, a same sex-same
5593 couple can be married but denied service at a restaurant.

5594 For some who have lived this life in another skin or
5595 another era, we understand what this is. Be fired from their
5596 jobs, as I have said, or evicted. The Equality Act is
5597 historic legislation that says unequivocally that LGBTQ
5598 Americans deserve the protections that were seen in the 1964
5599 Civil Rights Act. Although nothing is perfect, the Equality
5600 Act extends antidiscrimination protection to the LGBTQ
5601 Americans with regard to employment, education, access to
5602 credit, jury service, Federal funding, housing public
5603 accommodation.

5604 You wouldn't imagine that that does not exist today. No
5605 American should ever be treated as less than equal in the
5606 eyes of the law. The Equality Act will guarantee that the
5607 LGBTQ Americans in Texas and across the country cannot be
5608 discriminated against. It is long past the time for this

5609 legislation to become law, and I was very pleased to join
5610 Mr. Cicilline's leadership.

5611 And it important to take note of the fact that this is
5612 not a slim bill. This bill has garnered huge numbers of
5613 supporters, and it is important to understand that there are
5614 pages, pages of Members who desire to be on record to ensure
5615 that equality exists. The Equality Act affirms these
5616 interpretations of existing law and makes a prohibition
5617 against discrimination on the basis of sexual orientation,
5618 gender identity explicit in order to provide greater clarity
5619 to members of the public, employers, schools, businesses, and
5620 others. We don't expect to see a tsunami of change in our
5621 lives, except a simple, quiet expression of equality and
5622 justice for all.

5623 And that is all citizens of the United States want is to
5624 be left alone in the glory and the pride of the American
5625 flag, the red, white, and blue who flies for each and every
5626 one of us, including those transgender men and women who
5627 stood up to put on the uniform to fight for this Nation and
5628 to shed their blood for this Nation.

5629 And so we are hoping that there will be those who will
5630 study this bill as we move to the floor of the House. And
5631 frankly, we hope the hearts and minds of Senators will
5632 likewise be moved, and they will move the leadership to move
5633 this legislation.

5634 I am reminded, finally, of words that we learned early
5635 as children in school. "We hold these truths to be self-
5636 evident, that we all are created equal with certain
5637 inalienable rights of life and liberty and the pursuit of
5638 happiness."

5639 Today, if this bill passes in the Judiciary Committee,
5640 we will again reaffirm, along with all of these Members of
5641 Congress, the rights of all Americans to be under the
5642 Declaration of Independence about equality and justice for
5643 all.

5644 Mr. Chairman, with that, I unfortunately --

5645 Chairman Nadler. Before the gentlelady yields back,
5646 would you yield to me?

5647 Ms. Jackson Lee. I would be happy to do so.

5648 Unfortunately, I have to oppose the gentleman's amendment. I
5649 know that he means well, but I, frankly, believe that the
5650 article that he refers to relies on Title IX, and this bill
5651 does nothing to undermine Title IX.

5652 I will be happy to yield to the gentleman, Chairman.

5653 Chairman Nadler. Thank you.

5654 I would simply observe and with respect to this
5655 amendment that despite the fact that trans people have been
5656 participating in sports consistent with their gender at all
5657 levels for years, we have not seen any widespread dominance
5658 by trans athletes, and this amendment is a solution, a bad

5659 solution in search of a nonexistent problem.

5660 I yield back. Does the gentlelady yield back?

5661 Ms. Jackson Lee. I yield back.

5662 Chairman Nadler. I thank the gentlelady.

5663 Mr. Gohmert. Mr. Chairman, I would ask unanimous

5664 consent --

5665 Chairman Nadler. For what is the gentleman --

5666 Mr. Gohmert. To clarify I did not intend to slander
5667 Bobby Riggs, and I would admit that in 1939 when he won the
5668 Wimbledon national champs and U.S. national champs in 1941,
5669 he was a top male athlete. But 32 years later is when I was
5670 saying he was not at the top of his game.

5671 Chairman Nadler. I thank the gentleman for clarifying
5672 his remarks. We can all continue to admire Bobby Riggs.

5673 [Laughter.]

5674 Chairman Nadler. The question is on the amendment.

5675 Those in favor, say aye.

5676 Those opposed, no.

5677 In the opinion of the chair, the noes have it, and the
5678 amendment is not to.

5679 Mr. Johnson of Louisiana. I ask for a recorded vote.

5680 Chairman Nadler. A recorded vote is requested. The
5681 clerk will call the roll on the amendment.

5682 Ms. Strasser. Mr. Nadler?

5683 Chairman Nadler. No.

5684 Ms. Strasser. Mr. Nadler votes no.
5685 Ms. Lofgren?
5686 Ms. Lofgren. No.
5687 Ms. Strasser. Ms. Lofgren votes no.
5688 Ms. Jackson Lee?
5689 Ms. Jackson Lee. No.
5690 Ms. Strasser. Ms. Jackson Lee votes no.
5691 Mr. Cohen?
5692 Mr. Cohen. No.
5693 Ms. Strasser. Mr. Cohen votes no.
5694 Mr. Johnson of Georgia?
5695 Mr. Johnson of Georgia. No.
5696 Ms. Strasser. Mr. Johnson of Georgia votes no.
5697 Mr. Deutch?
5698 Mr. Deutch. No.
5699 Ms. Strasser. Mr. Deutch votes no.
5700 Ms. Bass?
5701 Mr. Richmond?
5702 Mr. Jeffries?
5703 Mr. Jeffries. No.
5704 Ms. Strasser. Mr. Jeffries votes no.
5705 Mr. Cicilline?
5706 Mr. Cicilline. No.
5707 Ms. Strasser. Mr. Cicilline votes no.
5708 Mr. Swalwell?

5709 Mr. Swalwell. No.

5710 Ms. Strasser. Mr. Swalwell votes no.

5711 Mr. Lieu?

5712 Mr. Raskin?

5713 Mr. Raskin. No.

5714 Ms. Strasser. Mr. Raskin votes no.

5715 Ms. Jayapal?

5716 Ms. Jayapal. No.

5717 Ms. Strasser. Ms. Jayapal votes no.

5718 Mrs. Demings?

5719 Mr. Correa?

5720 Mr. Correa. No.

5721 Ms. Strasser. Mr. Correa votes no.

5722 Ms. Scanlon?

5723 Ms. Scanlon. No.

5724 Ms. Strasser. Ms. Scanlon votes no.

5725 Ms. Garcia?

5726 Ms. Garcia. No.

5727 Ms. Strasser. Ms. Garcia votes no.

5728 Mr. Neguse?

5729 Mr. Neguse. No.

5730 Ms. Strasser. Mr. Neguse votes no.

5731 Mrs. McBath?

5732 Mrs. McBath. No.

5733 Ms. Strasser. Mrs. McBath votes no.

5734 Mr. Stanton?

5735 Ms. Dean?

5736 Ms. Dean. No.

5737 Ms. Strasser. Ms. Dean votes no.

5738 Ms. Mucarsel-Powell?

5739 Ms. Mucarsel-Powell. No.

5740 Ms. Strasser. Ms. Mucarsel-Powell votes no.

5741 Ms. Escobar?

5742 Ms. Escobar. No.

5743 Ms. Strasser. Ms. Escobar votes no.

5744 Mr. Collins?

5745 Mr. Collins. Yes.

5746 Ms. Strasser. Mr. Collins votes yes.

5747 Mr. Sensenbrenner?

5748 Mr. Chabot?

5749 Mr. Chabot. Aye.

5750 Ms. Strasser. Mr. Chabot votes aye.

5751 Mr. Gohmert?

5752 Mr. Gohmert. Aye.

5753 Ms. Strasser. Mr. Gohmert votes aye.

5754 Mr. Jordan?

5755 Mr. Jordan. Yes.

5756 Ms. Strasser. Mr. Jordan votes yes.

5757 Mr. Buck?

5758 Mr. Ratcliffe?

5759 Mrs. Roby?

5760 Mrs. Roby. Aye.

5761 Ms. Strasser. Mrs. Roby votes aye.

5762 Mr. Gaetz?

5763 Mr. Johnson of Louisiana?

5764 Mr. Johnson of Louisiana. Aye.

5765 Ms. Strasser. Mr. Johnson of Louisiana votes aye.

5766 Mr. Biggs?

5767 Mr. McClintock?

5768 Mr. McClintock. Aye.

5769 Ms. Strasser. Mr. McClintock votes aye.

5770 Mrs. Lesko?

5771 Mr. Reschenthaler?

5772 Mr. Reschenthaler. Aye.

5773 Ms. Strasser. Mr. Reschenthaler votes aye.

5774 Mr. Cline?

5775 Mr. Cline. Aye.

5776 Ms. Strasser. Mr. Cline votes aye.

5777 Mr. Armstrong?

5778 Mr. Steube?

5779 Mr. Steube. Yes.

5780 Ms. Strasser. Mr. Steube votes yes.

5781 Chairman Nadler. The gentleman from California?

5782 Mr. Lieu. No.

5783 Ms. Strasser. Mr. Lieu votes no.

5784 Chairman Nadler. The gentlelady from Florida?

5785 Mrs. Demings. No.

5786 Ms. Strasser. Mrs. Demings votes no.

5787 Chairman Nadler. The gentleman from Arizona?

5788 Mr. Stanton. No.

5789 Ms. Strasser. Mr. Stanton votes no.

5790 Chairman Nadler. Has every Member voted who wishes to

5791 vote? Is that everybody?

5792 [No response.]

5793 Chairman Nadler. The clerk will report.

5794 [Pause.]

5795 Ms. Strasser. Mr. Chairman, there are 10 ayes and 22

5796 noes.

5797 Chairman Nadler. The amendment is not agreed to.

5798 The question now occurs on the amendment in the nature

5799 of a substitute.

5800 All those in favor, respond by saying aye.

5801 Those opposed?

5802 In the opinion of the chair, the ayes have it, and the

5803 amendment in the nature of a substitute is agreed to.

5804 Mr. Gohmert. I ask for a roll call.

5805 Chairman Nadler. A roll call is requested. The clerk

5806 will call the roll on the amendment in the nature of a

5807 substitute.

5808 Ms. Strasser. Mr. Nadler?

5809 Chairman Nadler. Aye.

5810 Ms. Strasser. Mr. Nadler votes aye.

5811 Ms. Lofgren?

5812 Ms. Lofgren. Aye.

5813 Ms. Strasser. Ms. Lofgren votes aye.

5814 Ms. Jackson Lee?

5815 Ms. Jackson Lee. Aye.

5816 Ms. Strasser. Ms. Jackson Lee votes aye.

5817 Mr. Cohen?

5818 Mr. Cohen. Aye.

5819 Ms. Strasser. Mr. Cohen votes aye.

5820 Mr. Johnson of Georgia?

5821 Mr. Johnson of Georgia. Aye.

5822 Ms. Strasser. Mr. Johnson of Georgia votes aye.

5823 Mr. Deutch?

5824 Mr. Deutch. Aye.

5825 Ms. Strasser. Mr. Deutch votes aye.

5826 Ms. Bass?

5827 Mr. Richmond?

5828 Mr. Jeffries?

5829 Mr. Jeffries. Aye.

5830 Ms. Strasser. Mr. Jeffries votes aye.

5831 Mr. Cicilline?

5832 Mr. Cicilline. Aye.

5833 Ms. Strasser. Mr. Cicilline votes aye.

5834 Mr. Swalwell?

5835 Mr. Swalwell. Aye.

5836 Ms. Strasser. Mr. Swalwell votes aye.

5837 Mr. Lieu?

5838 Mr. Lieu. Aye.

5839 Ms. Strasser. Mr. Lieu votes aye.

5840 Mr. Raskin?

5841 Mr. Raskin. Aye.

5842 Ms. Strasser. Mr. Raskin votes aye.

5843 Ms. Jayapal?

5844 Ms. Jayapal. Aye.

5845 Ms. Strasser. Ms. Jayapal votes aye.

5846 Mrs. Demings?

5847 Mrs. Demings. Aye.

5848 Ms. Strasser. Mrs. Demings votes aye.

5849 Mr. Correa?

5850 Mr. Correa. Aye.

5851 Ms. Strasser. Mr. Correa votes aye.

5852 Ms. Scanlon?

5853 Ms. Scanlon. Aye.

5854 Ms. Strasser. Ms. Scanlon votes aye.

5855 Ms. Garcia?

5856 Ms. Garcia. Aye.

5857 Ms. Strasser. Ms. Garcia votes aye.

5858 Mr. Neguse?

5859 Mr. Neguse. Aye.

5860 Ms. Strasser. Mr. Neguse votes aye.

5861 Mrs. McBath?

5862 Mrs. McBath. Aye.

5863 Ms. Strasser. Mrs. McBath votes aye.

5864 Mr. Stanton?

5865 Mr. Stanton. Aye.

5866 Ms. Strasser. Mr. Stanton votes aye.

5867 Ms. Dean?

5868 Ms. Dean. Aye.

5869 Ms. Strasser. Ms. Dean votes aye.

5870 Ms. Mucarsel-Powell?

5871 Ms. Mucarsel-Powell. Aye.

5872 Ms. Strasser. Ms. Mucarsel-Powell votes aye.

5873 Ms. Escobar?

5874 Ms. Escobar. Aye.

5875 Ms. Strasser. Ms. Escobar votes aye.

5876 Mr. Collins?

5877 Mr. Collins. No.

5878 Ms. Strasser. Mr. Collins votes no.

5879 Mr. Sensenbrenner?

5880 Mr. Chabot?

5881 Mr. Chabot. No.

5882 Ms. Strasser. Mr. Chabot votes no.

5883 Mr. Gohmert?

5884 Mr. Gohmert. No.

5885 Ms. Strasser. Mr. Gohmert votes no.

5886 Mr. Jordan?

5887 Mr. Jordan. No.

5888 Ms. Strasser. Mr. Jordan votes no.

5889 Mr. Buck?

5890 Mr. Ratcliffe?

5891 Mrs. Roby?

5892 Mrs. Roby. No.

5893 Ms. Strasser. Mrs. Roby votes no.

5894 Mr. Gaetz?

5895 Mr. Johnson of Louisiana?

5896 Mr. Johnson of Louisiana. No.

5897 Ms. Strasser. Mr. Johnson of Louisiana votes no.

5898 Mr. Biggs?

5899 Mr. McClintock?

5900 Mr. McClintock. No.

5901 Ms. Strasser. Mr. McClintock votes no.

5902 Mrs. Lesko?

5903 Mr. Reschenthaler?

5904 Mr. Reschenthaler. No.

5905 Ms. Strasser. Mr. Reschenthaler votes no.

5906 Mr. Cline?

5907 Mr. Cline. No.

5908 Ms. Strasser. Mr. Cline votes no.

5909 Mr. Armstrong?

5910 Mr. Steube?

5911 Mr. Steube. No.

5912 Ms. Strasser. Mr. Steube votes no.

5913 Chairman Nadler. Has everyone voted who wishes to vote?

5914 [No response.]

5915 Chairman Nadler. The clerk will report.

5916 [Pause.]

5917 Ms. Strasser. Mr. Chairman, there are 22 ayes and 10

5918 noes.

5919 Chairman Nadler. The amendment in the nature of a

5920 substitute is agreed to.

5921 A reporting quorum being present, the question is on the

5922 motion to report the bill H.R. 5, as amended, favorably to

5923 the House.

5924 Those in favor, respond by saying aye.

5925 Those opposed, no.

5926 The ayes have it, and the bill is ordered reported

5927 favorably.

5928 Mr. Cicilline. Mr. Chairman, I ask for a recorded vote.

5929 Chairman Nadler. Recorded vote is requested. The clerk

5930 will call the roll.

5931 Ms. Strasser. Mr. Nadler?

5932 Chairman Nadler. Aye.

5933 Ms. Strasser. Mr. Nadler votes aye.

5934 Ms. Lofgren?
5935 Ms. Lofgren. Aye.
5936 Ms. Strasser. Ms. Lofgren votes aye.
5937 Ms. Jackson Lee?
5938 Ms. Jackson Lee. Aye.
5939 Ms. Strasser. Ms. Jackson Lee votes aye.
5940 Mr. Cohen?
5941 Mr. Cohen. Aye.
5942 Ms. Strasser. Mr. Cohen votes aye.
5943 Mr. Johnson of Georgia?
5944 Mr. Johnson of Georgia. Aye.
5945 Ms. Strasser. Mr. Johnson of Georgia votes aye.
5946 Mr. Deutch?
5947 Mr. Deutch. Aye.
5948 Ms. Strasser. Mr. Deutch votes aye.
5949 Ms. Bass?
5950 Mr. Richmond?
5951 Mr. Jeffries?
5952 Mr. Jeffries. Aye.
5953 Ms. Strasser. Mr. Jeffries votes aye.
5954 Mr. Cicilline?
5955 Mr. Cicilline. Aye.
5956 Ms. Strasser. Mr. Cicilline votes aye.
5957 Mr. Swalwell?
5958 Mr. Swalwell. Aye.

5959 Ms. Strasser. Mr. Swalwell votes aye.
5960 Mr. Lieu?
5961 Mr. Lieu. Aye.
5962 Ms. Strasser. Mr. Lieu votes aye.
5963 Mr. Raskin?
5964 Mr. Raskin. Aye.
5965 Ms. Strasser. Mr. Raskin votes aye.
5966 Ms. Jayapal?
5967 Ms. Jayapal. Aye.
5968 Ms. Strasser. Ms. Jayapal votes aye.
5969 Mrs. Demings?
5970 Mrs. Demings. Aye.
5971 Ms. Strasser. Mrs. Demings votes aye.
5972 Mr. Correa?
5973 Mr. Correa. Aye.
5974 Ms. Strasser. Mr. Correa votes aye.
5975 Ms. Scanlon?
5976 Ms. Scanlon. Aye.
5977 Ms. Strasser. Ms. Scanlon votes aye.
5978 Ms. Garcia?
5979 Ms. Garcia. Aye.
5980 Ms. Strasser. Ms. Garcia votes aye.
5981 Mr. Neguse?
5982 Mr. Neguse. Aye.
5983 Ms. Strasser. Mr. Neguse votes aye.

5984 Mrs. McBath?

5985 Mrs. McBath. Aye.

5986 Ms. Strasser. Mrs. McBath votes aye.

5987 Mr. Stanton?

5988 Mr. Stanton. Aye.

5989 Ms. Strasser. Mr. Stanton votes aye.

5990 Ms. Dean?

5991 Ms. Dean. Aye.

5992 Ms. Strasser. Ms. Dean votes aye.

5993 Ms. Mucarsel-Powell?

5994 Ms. Mucarsel-Powell. Yes.

5995 Ms. Strasser. Ms. Mucarsel-Powell votes yes.

5996 Ms. Escobar?

5997 Ms. Escobar. Aye.

5998 Ms. Strasser. Ms. Escobar votes aye.

5999 Mr. Collins?

6000 Mr. Collins. No.

6001 Ms. Strasser. Mr. Collins votes no.

6002 Mr. Sensenbrenner?

6003 Mr. Chabot?

6004 Mr. Chabot. No.

6005 Ms. Strasser. Mr. Chabot votes no.

6006 Mr. Gohmert?

6007 Mr. Jordan?

6008 Mr. Jordan. No.

6009 Ms. Strasser. Mr. Jordan votes no.
6010 Mr. Buck?
6011 Mr. Ratcliffe?
6012 Mrs. Roby?
6013 Mrs. Roby. No.
6014 Ms. Strasser. Mrs. Roby votes no.
6015 Mr. Gaetz?
6016 Mr. Johnson of Louisiana?
6017 Mr. Johnson of Louisiana. No.
6018 Ms. Strasser. Mr. Johnson of Louisiana votes no.
6019 Mr. Biggs?
6020 Mr. McClintock?
6021 Mr. McClintock. No.
6022 Ms. Strasser. Mr. McClintock votes no.
6023 Mrs. Lesko?
6024 Mr. Reschenthaler?
6025 Mr. Reschenthaler. No.
6026 Ms. Strasser. Mr. Reschenthaler votes no.
6027 Mr. Cline?
6028 Mr. Cline. No.
6029 Ms. Strasser. Mr. Cline votes no.
6030 Mr. Armstrong?
6031 Mr. Steube?
6032 Mr. Steube. No.
6033 Ms. Strasser. Mr. Steube votes no.

6034 Chairman Nadler. Has every Member voted who wishes to
6035 vote? The gentleman from Texas?

6036 Mr. Gohmert. No.

6037 Ms. Strasser. Mr. Gohmert votes no.

6038 Chairman Nadler. The clerk will report.

6039 [Pause.]

6040 Ms. Strasser. Mr. Chairman, there are 22 ayes and 10
6041 noes.

6042 Chairman Nadler. The bill is adopted. The bill, as
6043 amended, is ordered reported favorably to the House. Members
6044 will have 2 days to submit views.

6045 [Applause.]

6046 [Gavel sounding.]

6047 Chairman Nadler. The bill will be reported as a single
6048 amendment in the nature of a substitute incorporating all
6049 adopted amendments. Without objection, the staff is
6050 authorized to make technical and conforming changes.

6051 This concludes our business for today. Thanks to all
6052 our Members for attending. The markup is adjourned.

6053 [Whereupon, at 5:23 p.m., the committee was adjourned.]