

40.6 SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS

Mr. LIVINGSTON submitted a privileged report (Rept. No. 104-71) on the bill (H.R. 1159) making supplemental appropriations and rescissions for the fiscal year ending September 30, 1995, and for other purposes.

When said bill and report were referred to the Union Calendar and ordered printed.

Pursuant to clause 8 of rule XXI all points of order were reserved.

40.7 HOUSE OVERSIGHT REVIEW PANEL

The SPEAKER laid before the House the following communication, which was read as follows:

COMMITTEE ON HOUSE OVERSIGHT, Washington, DC, March 3, 1995.

Hon. NEWT GINGRICH, Speaker, House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: Pursuant to House Rule 51, clause 7, I have appointed the Honorable Lincoln Diaz-Balart as chairman of, and the Honorable Robert W. Ney to serve on, the review panel established by that Rule for the 104th Congress.

Best regards,

BILL THOMAS, Chairman.

40.8 MESSAGE FROM THE PRESIDENT—FEDERAL RAILROAD SAFETY

The SPEAKER pro tempore, Mr. CUNNINGHAM, laid before the House a message from the President, which was read as follows:

To the Congress of the United States:

I transmit herewith the 1993 annual report on the Administration of the Federal Railroad Safety Act of 1970, pursuant to section 211 of the Act (45 U.S.C. 440(a)).

WILLIAM J. CLINTON.

THE WHITE HOUSE, March 8, 1995.

By unanimous consent, the message, together with the accompanying papers, was referred to the Committee on Transportation and Infrastructure.

40.9 MESSAGE FROM THE PRESIDENT—TRADE POLICY AGENDA AND AGREEMENTS PROGRAM

The SPEAKER pro tempore, Mr. CUNNINGHAM, laid before the House a message from the President, which was read as follows:

To the Congress of the United States:

As required by section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 1995 Trade Policy Agenda and 1994 Annual Report on the Trade Agreements Program.

WILLIAM J. CLINTON.

THE WHITE HOUSE, March 8, 1995.

By unanimous consent, the message, together with the accompanying papers, was referred to the Committee on Ways and Means.

40.10 MESSAGE FROM THE PRESIDENT—FEDERAL COUNCIL ON AGING

The SPEAKER pro tempore, Mr. CUNNINGHAM, laid before the House a message from the President, which was read as follows:

To the Congress of the United States:

In accordance with section 204(f) of the Older Americans Act of 1965, as amended (42 U.S.C. 3015(f)), I transmit herewith the Annual Report for 1994 of the Federal Council on the Aging. The report reflects the Council's views in its role of examining programs serving older Americans.

WILLIAM J. CLINTON.

THE WHITE HOUSE, March 8, 1995.

By unanimous consent, the message, together with the accompanying papers, was referred to the Committee on Economic and Educational Opportunities.

40.11 FEDERAL SECURITIES LITIGATION REFORM

The SPEAKER pro tempore, Mr. CUNNINGHAM, pursuant to House Resolution 105 and rule XXIII, declared the House resolved into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes.

Mr. COMBEST, Chairman of the Committee of the Whole, resumed the chair; and after some time spent therein,

40.12 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following substitute amendment submitted by Mr. COX for the amendment submitted by Ms. ESHOO:

Substitute amendment submitted by Mr. COX:

Page 18, beginning on line 2, strike "For example" and all that follows through line 5 and insert the following: "Deliberately refraining from taking steps to discover whether one's statements are false or misleading constitutes recklessness, but if the failure to investigate was not deliberate, such conduct shall not be considered to be reckless."

Amendment submitted by Ms. ESHOO:

Page 18, beginning on line 2, strike "For example, a defendant who genuinely forgot to disclose, or to whom disclosure did not come to mind, is not reckless."

It was decided in the affirmative Yeas 252 Nays 173 Answered present 1

40.13 [Roll No. 210] AYES—252

- Allard Boehert Chabot
Archer Boehner Chambliss
Armey Bonilla Chenoweth
Bachus Bono Christensen
Baker (CA) Brewster Chrysler
Baker (LA) Browder Clinger
Ballenger Brownback Coble
Barr Bryant (TN) Coburn
Barrett (NE) Bunn Collins (GA)
Bartlett Bunning Combest
Barton Barton Condit
Bass Burton Cooley
Bateman Buyer Cox
Bereuter Callahan Cramer
Bilbray Calvert Crane
Bilirakis Bilirakis Crapo
Bliley Canady Cremeans
Blute Castle Cubin

- Cunningham Davis Johnson (CT)
Deal Johnson, Sam Ramstad
DeLay Jones Regula
Diaz-Balart Kasich Riggs
Dickey Kelly Roberts
Dooley Kennedy (RI) Roemer
Doolittle Kim Rogers
Dornan King Rohrabacher
Dreier Kingston Ros-Lehtinen
Dunn Klug Roth
Ehlers Knollenberg Roukema
Ehrlich Kolbe Royce
Emerson LaHood Salmon
English Largent Sanford
Ensign Latham Saxton
Everett LaTourette Scarborough
Ewing Laughlin Schaefer
Fawell Lazio Schiff
Fields (TX) Leach Seastrand
Flanagan Lewis (CA) Sensenbrenner
Foley Lewis (KY) Shadegg
Forbes Lightfoot Shaw
Fowler Linder Shays
Franks (CT) Livingston Shuster
Franks (NJ) LoBiondo Siskisky
Frelinghuysen Longley Skeen
Frisa Lucas Skelton
Frost Manzullo Smith (MI)
Funderburk Martini Smith (NJ)
Gallegly McCollum Smith (TX)
Ganske McCrery Smith (WA)
Gekas McHugh Solomon
Geren McInnis Souder
Gilchrest McIntosh Spence
Gillmor McKeon Stearns
Gilman McNulty Stenholm
Goodlatte Menendez Stockman
Goodling Metcalf Stump
Goss Meyers Talent
Graham Mica Tate
Greenwood Miller (FL) Tauzin
Gunderson Minge Taylor (NC)
Gutknecht Molinari Thomas
Hall (TX) Montgomery Thornberry
Hancock Moorhead Tiahrt
Hansen Moran Torquensen
Harman Morella Upton
Hastert Myers Vucanovich
Hastings (WA) Myrick Waldholtz
Hayworth Nethercutt Walker
Hefley Neumann Walsh
Heineman Ney Wamp
Herger Norwood Watts (OK)
Hilleary Nussle Weldon (FL)
Hobson Oxley Weldon (PA)
Hoekstra Packard Weller
Hoke Parker White
Holden Paxon Whitfield
Horn Peterson (MN) Wicker
Hostettler Petri Wilson
Houghton Pombo Wolf
Hunter Porter Young (AK)
Hutchinson Portman Young (FL)
Hyde Pryce Zelfi
Inglis Quillen Zimmer

NOES—173

- Ackerman de la Garza Gutierrez
Andrews DeFazio Hall (OH)
Baesler DeLauro Hamilton
Baldacci Dellums Hastings (FL)
Barcia Deutsch Hayes
Barrett (WI) Dicks Hefner
Becerra Dingell Hilliard
Beilenson Dixon Hinchey
Bentsen Doggett Hoyer
Berman Doyle Istook
Bevill Duncan Jackson-Lee
Bishop Durbin Jefferson
Bonior Edwards Johnson (SD)
Borski Engel Johnston
Boucher Eshoo Kanjorski
Brown (CA) Evans Kaptur
Brown (FL) Farr Kennedy (MA)
Brown (OH) Fattah Kennelly
Bryant (TX) Fazio Kildee
Cardin Fields (LA) Kleczka
Chapman Filner Klink
Clay Flake LaFalce
Clement Foglietta Lantos
Clyburn Ford Levin
Coleman Fox Lewis (GA)
Collins (IL) Frank (MA) Lincoln
Collins (MI) Furse Lipinski
Conyers Gejdenson Lofgren
Costello Conyers Luther
Coyne Gonzalez Maloney
Crapo Gordon Manton
Cremeans Danner Green Markey

Martinez Pelosi Stupak
 Mascara Peterson (FL) Tanner
 Matsui Pickett Taylor (MS)
 McCarthy Pomeroy Tejada
 McDermott Poshard Thompson
 McHale Rahall Thornton
 Meehan Reed Thurman
 Mfume Reynolds Torres
 Miller (CA) Richardson Torricelli
 Mineta Rivers Towns
 Mink Rose Traficant
 Moakley Roybal-Allard Tucker
 Mollohan Rush Velazquez
 Murtha Sabo Vento
 Nadler Sanders Visclosky
 Neal Sawyer Volkmer
 Oberstar Schroeder Ward
 Obey Schumer Watt (NC)
 Olver Scott Waxman
 Ortiz Serrano Williams
 Orton Skaggs Wise
 Owens Slaughter Woolsey
 Pallone Spratt Wyden
 Pastor Stark Wynn
 Payne (NJ) Stokes Yates
 Payne (VA) Studds

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—8

Abercrombie McDade Rangel
 Gibbons McKinney Waters
 Johnson, E.B. Meek

So the substitute amendment for the amendment was agreed to.

After some further time,

40.14 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. MARKEY:

Page 28, after line 2, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 6. INAPPLICABILITY TO DERIVATIVES.

This Act and the amendments made by this Act shall not apply to any action based on an allegation of fraud in connection with the purchase or sale of a derivative instrument. For purposes of this section, the term "derivative instrument" means any financial contract or other instrument that derives its value from the value or performance of any security, currency exchange rate, or interest rate (or group or index thereof), but does not include—

(1) any security that is traded on a national securities exchange or on an automated interdealer quotation system sponsored by a securities association registered under section 15A of this title;

(2) any forward contract which has a maturity at the time of issuance not exceeding 270 days;

(3) any contract of sale of a commodity for future delivery, or any option on such a contract, traded or executed on a designated contract market and subject to regulation under the Commodity Exchange Act; or

(4) any deposit held by a financial institution.

It was decided in the negative

Yeas 162
 Nays 261
 Answered present 1

40.15 [Roll No. 211] AYES—162

Abercrombie Berman Cardin
 Ackerman Bishop Clay
 Andrews Bonior Clayton
 Baesler Borski Clement
 Baldacci Boucher Clyburn
 Barrett (WI) Brown (CA) Coleman
 Bateman Brown (FL) Collins (IL)
 Becerra Brown (OH) Collins (MI)
 Beilenson Bryant (TX) Conyers

Costello Kaptur Pomeroy
 Coyne Kennedy (MA) Poshard
 DeFazio Kelleny Rahall
 DeLauro Kildee Reed
 Dellums Kleczka Reynolds
 Dicks Klink Rivers
 Dingell Lantos Roemer
 Dixon Levin Roukema
 Doggett Lewis (GA) Roybal-Allard
 Doyle Lipinski Rush
 Duncan Lofgren Sabo
 Durbin Luther Sanders
 Edwards Maloney Sawyer
 Engel Manton Schroeder
 Nadler Markkey Schumer
 Evans Martinez Scott
 Farr Mascara Serrano
 Fazio Matsui Slaughter
 Fields (LA) McCarthy Smith (WA)
 Filner McDermott Spratt
 Flake McHale Stark
 Foglietta McNulty Stokes
 Ford Meehan Studds
 Fox Menendez Stupak
 Frost Metcalf Tanner
 Furse Mfume Taylor (MS)
 Gejdenson Miller (CA) Thompson
 Gephardt Mineta Thornton
 Gordon Minge Torres
 Green Mink Torricelli
 Gutierrez Moakley Towns
 Hall (OH) Mollohan Traficant
 Hamilton Morella Tucker
 Hastings (FL) Murtha Velazquez
 Hefner Nadler Visclosky
 Hilliard Neal Volkmer
 Hinchey Oberstar Ward
 Holden Obey Watt (NC)
 Horn Olver Waxman
 Hoyer Owens Williams
 Jackson-Lee Pallone Wise
 Jacobs Pastor Woolsey
 Johnson (SD) Payne (NJ) Wyden
 Johnson, E. B. Pelosi Wynn
 Johnston Peterson (FL) Yates

NOES—261

Allard Crane Hansen
 Archer Crapo Harman
 Arney Cremeans Hastert
 Bachus Cubin Hastings (WA)
 Baker (CA) Cunnigham Hayes
 Baker (LA) Danner Hayworth
 Ballenger de la Garza Hefley
 Barcia Deal Heineman
 Barr DeLay Hergler
 Barrett (NE) Deutsch Hilleary
 Bartlett Diaz-Balart Hobson
 Barton Dickey Hoekstra
 Bass Dooley Hoke
 Bentsen Doolittle Hostettler
 Bereuter Dornan Houghton
 Bevill Dreier Hunter
 Bilbray Dunn Hutchinson
 Bilirakis Ehlers Hyde
 Bliley Ehrlich Inglis
 Blute Emerson Istook
 Boehlert English Johnson (CT)
 Boehner Ensign Johnson, Sam
 Bonilla Everett Jones
 Bono Ewing Kanjorski
 Brewster Fawell Kasich
 Browder Fields (TX) Kelly
 Brownback Flanagan Kennedy (RI)
 Bryant (TN) Foley Kim
 Bunn Forbes King
 Bunning Fowler Kingston
 Burr Frank (MA) Klug
 Burton Franks (CT) Knollenberg
 Buyer Franks (NJ) Kolbe
 Callahan Frelinghuysen LaFalce
 Calvert Frisa LaHood
 Camp Funderburk Largent
 Canady Galleghy Latham
 Castle Ganske Laughlin
 Chabot Gekas Lazio
 Chambliss Geren Leach
 Chapman Gilchrist Lewis (CA)
 Chenoweth Gillmor Lewis (KY)
 Christensen Gilman Lightfoot
 Chrysler Gonzalez Lincoln
 Clinger Goodlatte Linder
 Coble Goodling Livingston
 Coburn Goss LoBiondo
 Collins (GA) Graham Longley
 Combest Greenwood Lucas
 Condit Gunderson Manzullo
 Cooley Gutknecht Martini
 Cox Hall (TX) McCollum
 Cramer Hancock McCreery

McHugh Radanovich Stearns
 McInnis Ramstad Stenholm
 McIntosh Regula Stockman
 McKeon Richardson Stump
 Meyers Riggs Talent
 Mica Roberts Tate
 Miller (FL) Rogers Tauzin
 Molinari Rohrabacher Taylor (NC)
 Montgomery Ros-Lehtinen Tejada
 Moorhead Rose Thomas
 Moran Roth Thornberry
 Myers Royce Thurman
 Myrick Salmon Tiahrt
 Nethercutt Sanford Torkildsen
 Neumann Saxton Upton
 Ney Scarborough Vento
 Norwood Schaefer Vucanovich
 Nussle Schiff Waldholtz
 Ortiz Seastrand Walker
 Orton Sensenbrenner Walsh
 Oxley Shadegg Wamp
 Packer Shaw Watts (OK)
 Parker Shays Weldon (FL)
 Paxon Shuster Weldon (PA)
 Payne (VA) Sisisky Weller
 Peterson (MN) Skaggs White
 Petri Skeen Whitfield
 Pickett Skelton Wicker
 Pombo Smith (MI) Wilson
 Porter Smith (NJ) Wolf
 Portman Smith (TX) Young (AK)
 Pryce Solomon Young (FL)
 Quillen Souder Zeliff
 Quinn Spence Zimmer

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—10

Davis LaTourette Rangel
 Fattah McDade Waters
 Gibbons McKinney
 Jefferson Meek

So the amendment was not agreed to. After some further time,

40.16 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. DINGELL:

Page 28, line 12, insert before the period the following: ", except that this Act and the amendments made by this Act shall not apply to any action commenced by any State or local government, or any agency or instrumentality of any State or local government, before the date which is 3 years after such date of enactment."

It was decided in the negative

Yeas 179
 Nays 248
 Answered present 1

40.17 [Roll No. 212] AYES—179

Abercrombie Collins (IL) Ford
 Ackerman Collins (MI) Fox
 Andrews Conyers Frank (MA)
 Bachus Costello Frost
 Baesler Coyne Furse
 Baldacci Cramer Gejdenson
 Barcia de la Garza Gephardt
 Barrett (WI) DeFazio Gonzalez
 Becerra DeLauro Gordon
 Beilenson Dellums Green
 Bentsen Dicks Gutierrez
 Berman Dingell Hall (OH)
 Bevill Dixon Hall (TX)
 Bishop Doggett Hamilton
 Bonior Doyle Hastings (FL)
 Borski Duncan Hefner
 Boucher Durbin Hilliard
 Browder Edwards Hinchey
 Brown (CA) Engel Holden
 Brown (FL) Eshoo Hoyer
 Brown (OH) Evans Jackson-Lee
 Bryant (TX) Farr Jefferson
 Cardin Fattah Johnson (SD)
 Chapman Fazio Johnson, E.B.
 Clay Fields (LA) Johnston
 Clayton Filner Kanjorski
 Clayburn Flake Kaptur
 Coleman Foglietta Kennedy (MA)