

be involved in a fair housing case is if an individual files suit at his own cost and if the respondent agrees to appear before a magistrate. This is the current procedure under the Magistrates Act and cannot be changed by the amendment. Thus, this remains the magistrate procedure under H.R. 5200 as well. Any individual can go to court today and request a hearing before a magistrate. Therefore, the language added by my distinguished colleagues is superfluous.

It is precisely the prolonged, expensive remedy of court action proposed by the Sensenbrenner amendment that has proven ineffective. The magistrate system does not replace the administrative enforcement system either in terms of numbers or effectiveness. First, the amendment has no mandatory requirement to appear before a magistrate. Such a requirement may in fact be of doubtful constitutionality. Second, the cost to the complainant to appear before a magistrate is the individual's own expense. To appear before an administrative law judge, HUD would pay the court costs. Thus, the individual's cost is much greater when appearing before a magistrate. Third, it is clear that the administrative enforcement mechanism of the Sensenbrenner-Volkmer amendment is performed by one individual—the Secretary of HUD.

The administrative process of H.R. 5200 squarely meets the problems of delay, cost, and ineffective relief—the Sensenbrenner-Volkmer amendment merely perpetuates a difficult and time-consuming procedure of 20 months delay in court, with no adequate alternative.

I believe that careful scrutiny of the Sensenbrenner-Volkmer amendment reveals that the same problems of ineffective enforcement of the fair housing laws will continue if the amendment is adopted. There will be delays while the Secretary of HUD travels around the country to conciliation hearings or the complainant and respondent come to Washington to appear before the Secretary. The relief that can be granted by the Secretary or the arbitration process is completely inadequate to truly compensate the victim of discrimination and to deter future acts of discrimination.

I urge defeat of the Sensenbrenner-Volkmer amendment and support of the administrative and judicial enforcement system under H.R. 5200 as amended by Mr. SYNAR, as it affords the fastest, fairest, most efficient and complete relief to the victim of discrimination.

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

Mr. FISH. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I want to commend the gentleman for his role both in committee and on the floor here on this momentous legislation.

Mr. Chairman, I wish to record my support for the Synar amendment. I support the amendment because it restores and strengthens a key provision of H.R. 5200, which would be eliminated by the Sensenbrenner amendment. This is the provision for administrative remedies through administrative law judges.

We should recognize the Sensenbren-

ner-Volkmer amendment for what it is—an attempt to reject the bill by deleting its single most important provision. The effect of the amendment would be to continue the present ineffective system of nonenforcement.

Proponents of the amendment argue that "a day in court" (as opposed to an administrative hearing) is necessary to protect the rights of all parties, including those discriminated against. To argue that we must deny administrative remedies to victims of discrimination in order to protect their rights is equivalent to the ultimate absurdity of the Vietnam war; namely the statement of a field commander who explained: "We found it necessary to destroy the village in order to save it." It is reminiscent of court decisions in the early part of this century which struck down child labor laws on the grounds that children had a right to work more than 12 hours a day. Additionally, the fact is "a day in court" is guaranteed under the bill to either party who is not satisfied with the decision of the ALJ.

Private suits under present law are, effectively, not available to the poor, who are the most frequent victims of discrimination. Administrative relief is necessary. Likewise, suits by the Attorney General, as authorized currently, do not provide adequate relief for individual victims. These suits are presently authorized only if a "pattern of practice" of discrimination exists. It is not available in individual cases.

The ALJ hearing procedure provides the best features of both the court remedy and administrative remedies in that:

First. It is relatively inexpensive, practical, and quickly available;

Second. ALJ's are guaranteed independence from HUD control or direction, just as courts are independent. The Synar amendment makes this independence even stronger;

Third. Before ALJ hearings are permitted, equivalent State or local enforcement machinery must be found to be unavailable. If it is available, the case must be referred to the State or local agency;

Fourth. HUD must first attempt to conciliate the case before the administrative hearing can be ordered; and

Fifth. An appeal is provided to the Federal district courts from decisions of ALJ's.

Twelve years of experience under title VIII have demonstrated the need for an effective mechanism whereby persons victimized by housing discrimination may seek an immediate, locally available, fair and expeditious review of, and, if appropriate, relief from the discrimination. The Synar amendment provides this, and I urge its adoption.

Mr. VOLKMER. Mr. Chairman, I move to strike the last word, and rise in opposition to the Synar amendment.

Mr. Chairman, I know the time is drawing late and people wish to vote on this, and I think there has been considerable discussion. But there is one area I think we should elaborate on a little bit more, and that is what does the Synar amendment actually do.

One thing for sure it does and that is, if my colleagues want to do it that is fine, but one thing is does it is sure gets rid of the Sensenbrenner-Volkmer or Volkmer-Sensenbrenner. It kills it. It is dead. My colleagues will never have it that way if they vote for the Synar amendment. If they want to do that, that is fine, but let us recognize that that is really the main purpose of it, because what else does it do other than that? Not very much. Not as far as the bill is concerned. We still have the ALJ process.

There is one thing it does do that I agree with, and it amazes me that those espousing the bill are so much in favor of it, where before we could not even get them to first base on it, and that is it does take it out of HUD as far as the appointing process is concerned and puts it over in the Attorney General. But that is a small bit when we look at the total picture of what we are doing here.

We are not just passing a law for Federal enforcement of fair housing. This law also applies to State and local governments if they wish to have their enforcement mechanisms. Let us remember that. They have to be comparable.

Now, what are we going to compare them with? We are going to compare them with what is here. That is what we are going to compare it with. If that is what my colleagues want to do and that is what they want to be required, that is fine, but how many presently have within their States a system for administrative tribunals, administrative law judges, to hear these cases as against how many presently have local court systems which can be utilized under the Volkmer-Sensenbrenner on the Federal level?

What else does it do? It does not take care of the damages. The bill nor the Synar amendment takes care of damages for a person who has been discriminated against, not for compensatory damages. We do, they do not. That is all there is to it. It is a question of whether we want to do that or not. I feel very strongly that they should be compensated if they have been wronged. I believe they should receive damages for being wronged.

What happens in the zoning? In the Synar amendment we do not really take care of that. It does not really go away to the courts like my colleague may have been led to believe. It really does not do that. It is still there. It is still there and it will remain there. Under the Volkmer-Sensenbrenner it is gone. My colleagues will not have to worry about it. They will not have to worry about administrative hearings in regard to their local zoning in regard to housing.

I think it very important that especially those who have States that are comparable and have been certified that they realize actually what they are doing in regard to the comparability process for their States to remain certified and for those who wish to be certified in the future. They will have to have comparability to this.

One other thing I think is very important as to whether or not we want to go along and we believe everything that HUD will do in regard to everything

we say on the floor is what they should do, even the chairman of the subcommittee. We have one instance in regard to that right now before us. Just this last month on May 14 what did HUD do? Now HUD knows what we have been writing in this bill and what has come out of the full committee in this bill. They know that we said that they should not pull these cases that have been certified to those States that are certified by this process, they do not pull those back without consent of that State agency. So what did they do? HUD promulgated a regulation that is going to require that State agency to consent in advance to have it back. So they negate exactly what we are saying should be done.

In my opinion, if we need to correct this, I think we do, and later on I do not think we are going to finish this bill today, but later on I think we are going to have to write language in here to specifically take care of our bureaucratic process, to say that that consent can only be given after the case has been certified and only on a case-by-case basis. That is the only way to take care of some of these bureaucratic processes.

I feel very strongly that the Volkmer-Sensenbrenner amendment will provide a mechanism for proper enforcement for housing and discrimination against housing in this country. I think it is a lot better than the bill, that it is a proper way to do it, and I urge Members to vote "no" on the Synar amendment, and "yes" on Sensenbrenner-Volkmer.

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

Mr. Chairman, I rise in support of the amendment being offered by my colleague, Mr. SENSENBRENNER, to delete section 8 from the bill.

Section 810, as written, would not be fair to those individual States, like my native State of California, which already have especially good and fair housing laws.

H.R. 5200, if enacted, would change present law (Public Law 90-284) to create unprecedented enforcement powers for a Federal agency. This is a danger to the rights reserved to the States and is in conflict with the U.S. Constitution.

If not deleted, section 810 would, among other harmful enlargements of enforcement authority, secure HUD's right to continue in dual action with the individual States. This authority could give HUD the power to preempt State law and thus could strangle the ability of the individual States to demonstrate that they can act in a right and proper way to protect their own citizens from discriminatory practices without the intervention of the Federal Government. For example, the State of California has what are widely recognized as just housing laws.

When the people in this "land of the free" are nearly suffocated by oppressive rules, regulations and redtape, it is unconscionable that we would be expanding the powers of the Federal Government.

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

Mr. Chairman, one important aspect of the fair housing legislation under consideration today is the role of administrative law judges in proceedings at the Department of Housing and Urban Development. An amendment offered by Mr. SYNAR would change existing law regarding the appointment and authority of administrative law judges within HUD. The Committee on Post Office and Civil Service, which I chair, recently completed 2 days of hearings on H.R. 6768, a bill to revise the process for the appointment and oversight of administrative law judges. We anticipate markup later this month. Although the Synar amendment and the legislation which my committee is considering may take different approaches to ALJ appointment and oversight, they are directed at the same goal—insuring the independence, impartiality, and competence of the key figures in administrative proceedings. Consequently, although the appointment of administrative law judges falls within the jurisdiction of the committee I chair, I raise no objection to the Synar amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. SYNAR) to the amendments offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question was taken; and on a division (demanded by Mr. VOLKMER) there were—ayes 26, noes 25.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 204, not voting 24, as follows:

[Roll No. 311]

AYES—205

Addabbo	Cotter	Green
Akaka	Coughlin	Guarini
Alexander	D'Amours	Hall, Ohio
Ambro	Danielson	Hamilton
Anderson,	Daschle	Hance
Calif.	de la Garza	Hanley
Ashley	Dellums	Harkin
Aspin	Derrick	Harris
AuCoin	Dicks	Hawkins
Balcy	Dixon	Heckler
Baldus	Dodd	Heftel
Barnes	Downey	Hollenbeck
Beard, R.I.	Drinan	Holtzman
Bedell	Duncan, Oreg.	Horton
Bellenson	Early	Howard
Benjamin	Eckhardt	Hughes
Bereuter	Edgar	Hutchinson
Blagel	Edwards, Calif.	Jacobs
Bingham	Emery	Johnson, Calif.
Blanchard	Erdahl	Jones, Okla.
Boggs	Evans, Ind.	Kastenmeier
Boland	Fascell	Kildee
Bolling	Fazio	Kostmayer
Bonior	Penwick	LaFalce
Bonker	Ferraro	Leach, Iowa
Bouquard	Fish	Lederer
Brademas	Fisher	Lehman
Brodhead	Florio	LeLand
Brown, Calif.	Foley	Levitas
Burlison	Ford, Mich.	Long, La.
Burton, John	Ford, Tenn.	Long, Md.
Burton, Phillip	Fowler	Lowry
Butler	Frost	Lundine
Carr	Gaydos	McClory
Cavanaugh	Gibbons	McCloskey
Chisholm	Gillman	McDade
Clinger	Glickman	McHugh
Collins, Ill.	Gonzalez	Maguire
Conte	Gore	Markey
Conyers	Gradison	Marks
Corman	Gray	Matsui

Mattox	Pritchard	Steed
Mazzoli	Pursell	Stewart
Mikulski	Rahall	Stokes
Miller, Calif.	Rallsback	Studds
Mineta	Rangel	Swift
Minish	Ratchford	Synar
Mitchell, Md.	Richmond	Tauke
Moakley	Rinaldo	Traxler
Moffett	Rodino	Udall
Moorhead, Pa.	Roe	Ullman
Murphy, Ill.	Rose	Van Deerin
Murphy, Pa.	Rosenthal	Vanik
Murtha	Rostenkowski	Vento
Musto	Roybal	Walgren
Myers, Pa.	Sabo	Watkins
Nelson	Scheuer	Waxman
Nolan	Schroeder	Weaver
Nowak	Seiberling	Weiss
Oaker	Shannon	Wilson, C. H.
Oberstar	Sharp	Wilson, Tex.
Obey	Simon	Wirth
Ottinger	Smith, Iowa	Wolf
Panetta	Solarz	Wolpe
Patterson	Spellman	Wright
Pease	St Germain	Yates
Pepper	Stack	Zablocki
Peysers	Staggers	Zerferetti
Price	Stark	

NOES—204

Abdnor	Gingrich	Mottl
Albosta	Ginn	Myers, Ind.
Andrews, N.C.	Goldwater	Natcher
Andrews,	Goodling	Neal
N. Dak.	Gramm	Nichols
Annunzio	Grassley	O'Brien
Anthony	Grisham	Pashayan
Applegate	Gudger	Paul
Archer	Guyer	Perkins
Ashbrook	Hagedorn	Petri
Atkinson	Hall, Tex.	Pickle
Badham	Hammer-	Porter
Bafalis	schmidt	Preyer
Barnard	Hansen	Quayle
Bauman	Harsha	Quillen
Bennett	Hefner	Regula
Bethune	Hightower	Rhodes
Bevill	Hillis	Ritter
Boner	Hinson	Roberts
Bowen	Holland	Robinson
Breaux	Holt	Roth
Brooks	Hopkins	Rousselot
Broomfield	Hubbard	Royer
Brown, Ohio	Huckaby	Rudd
Broyhill	Hutto	Russo
Burgener	Hyde	Satterfield
Byron	Ichord	Sawyer
Campbell	Ireland	Schulze
Carney	Jeffords	Sebelius
Carter	Jeffries	Sensenbrenner
Chappell	Jenkins	Shelby
Cheney	Johnson, Colo.	Shumway
Clausen	Jones, N.C.	Shuster
Cleveland	Jones, Tenn.	Skelton
Coelho	Kazen	Smith, Nebr.
Coleman	Kelly	Snowe
Collins, Tex.	Kemp	Snyder
Conable	Kindness	Solomon
Corcoran	Kogovsek	Spence
Courter	Kramer	Stangeland
Crane, Daniel	Lagomarsino	Stanton
Crane, Phillip	Latta	Stenholm
Daniel, Dan	Leach, La.	Stockman
Daniel, R. W.	Leath, Tex.	Stratton
Dannemeyer	Lee	Stump
Davis, Mich.	Lent	Tauzin
Deckard	Lewis	Taylor
Derwinski	Livingston	Thomas
Devine	Lloyd	Trible
Dickinson	Loeffler	Vander Jagt
Dingell	Lott	Volkmer
Dornan	Lujan	Walker
Dougherty	Luken	Wampler
Duncan, Tenn.	Lungren	White
Edwards, Ala.	McDonald	Whitehurst
Edwards, Okla.	McEwen	Whitley
English	McKay	Whittaker
Erlenborn	Madigan	Whitten
Ertel	Marlenee	Williams, Ohio
Evans, Del.	Marrriott	Winn
Evans, Ga.	Martin	Wyatt
Fary	Mica	Wydler
Findley	Michel	Wylie
Fithian	Miller, Ohio	Yatron
Flipflo	Mitchell, N.Y.	Young, Alaska
Forsythe	Mollohan	Young, Fla.
Fountain	Montgomery	Young, Mo.
Frenzel	Moore	
Fuqua	Moorhead,	
Gephardt	Calif.	

NOT VOTING—24

Anderson, Ill.	Buchanan	Donnelly
Beard, Tenn.	Clay	Garcia
Brinkley	Davis, S.C.	Gaimo