

Ed, and now Ed claims that his apple has been cut in two. The query by the cartoonist is "How can that be?" And the answer is "That's a Democrat."

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO ANGOLA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

(H.DOC.NO. 104-53)

The SPEAKER pro tempore (Mr. McINNIS) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

I hereby report to the Congress on the developments since September 26, 1994, concerning the national emergency with respect to Angola that was declared in Executive Order No. 12865 of September 26, 1993. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

On September 26, 1993, I declared a national emergency with respect to Angola, invoking the authority, inter alia, of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) and the United Nations Participation Act of 1945 (22 U.S.C. 287c). Consistent with United Nations Security Council Resolution 864, dated September 15, 1993, the order prohibited the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to the territory of Angola other than through designated points of entry. The order also prohibited such sale or supply to the National Union for the Total Independence of Angola ("UNITA"). United States persons are prohibited from activities that promote or are calculated to promote such sales or supplies, or from attempted violations, or from evasion or avoidance or transactions that have the purpose of evasion or avoidance, of the stated prohibitions. The order authorized the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as might be necessary to carry out the purposes of the order.

1. On December 10, 1993, the Treasury Department's Office of Foreign Assets Control ("FAC") issued the UNITA (Angola) Sanctions Regulations (the "Regulations") (58 Fed. Reg. 64904) to implement the President's declaration of a national emergency and imposition of sanctions against Angola (UNITA). There have been no amend-

ments to the Regulations since my report of September 20, 1994.

The Regulations prohibit the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to UNITA or to the territory of Angola other than through designated points. United States persons are also prohibited from activities that promote or are calculated to promote such sales or supplies to UNITA or Angola, or from any transaction by any United States persons that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Executive order. Also prohibited are transactions by United States persons, or involving the use of U.S.-registered vessels or aircraft, relating to transportation to Angola or UNITA of goods the exportation of which is prohibited.

The Government of Angola has designated the following points of entry as points in Angola to which the articles otherwise prohibited by the Regulations may be shipped: *Airports*: Luanda and Katumbela, Benguela Province; *Ports*: Luanda and Lobito, Benguela Province; and *Entry Points*: Malongo, Cabinda Province. Although no specific license is required by the Department of the Treasury for shipments to these designated points of entry (unless the item is destined for UNITA), any such exports remain subject to the licensing requirements of the Departments of State and/or Commerce.

2. FAC has worked closely with the U.S. financial community to assure a heightened awareness of the sanctions against UNITA—through the dissemination of publications, seminars, and notices to electronic bulletin boards. This educational effort has resulted in frequent calls from banks to assure that they are not routing funds in violation of these prohibitions. United States exporters have also been notified of the sanctions through a variety of media, including special fliers and computer bulletin board information initiated by FAC and posted through this Department of Commerce and the Government Printing Office. There have been no license applications under the program.

3. The expenses incurred by the Federal Government in the 6-month period from September 26, 1994, through March 25, 1995, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Angola (UNITA) are reported at about \$50,000, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Customs Service, the Office of the Under Sec-

retary for Enforcement, and the Office of the General Counsel) and the Department of State (particularly the Office of Southern African Affairs).

I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, March 27, 1995.

REPORT ON HEALTH CARE FOR NATIVE HAWAIIANS PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States which was read and, together with the accompanying papers, without objection, referred to the Committee on Commerce.

To the Congress of the United States:

I transmit herewith the Report on the Health Care for Native Hawaiians Program, as required by section 11 of the Native Hawaiians Health Care Act of 1988, as amended (Public Law 102-396; 42 U.S.C. 11701 et. seq.).

WILLIAM J. CLINTON.

THE WHITE HOUSE, March 27, 1995.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON HOUSE OVERSIGHT

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on House Oversight.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE OVERSIGHT,
Washington, DC, March 24, 1995.

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

DEAR MR. SPEAKER: In my letters to you of January 18, 1995 assigning various functions to the House Officers, I indicated that assignment of these responsibilities constituted a first step in the ongoing restructuring of House operations, and that further changes may be directed as they become necessary.

Based on further review, and pursuant to the authority vested in the Committee on House Oversight by House Rule X, clause 1(h) and clause 4(d)(2), the Committee directs that operational and financial responsibility for the House Document Room is assigned to the Clerk of the House of Representatives effective on March 27, 1995.

Best regards,

BILL THOMAS,
Chairman.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on

all motions to suspend the rules but not before 5 p.m. today.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1995

Mr. FAWELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 849) to amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers, and for other purposes.

The Clerk read as follows:

H.R. 849

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination in Employment Amendments of 1995".

SEC. 2. REINSTATEMENT OF EXEMPTION.

(a) **REPEAL OF REPEALER.**—Section 3(b) of the Age Discrimination in Employment Amendments of 1986 (29 U.S.C. 623 note; Public Law 99-592) is repealed.

(b) **EXEMPTION.**—Section 4(j) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623), as in effect immediately before December 31, 1993—

(1) is hereby reenacted as such, and

(2) as so reenacted, is amended by striking "attained the age" and all that follows through "1983, and", and inserting the following:

"attained—

"(A) the age of hiring or retirement in effect under applicable State or local law on March 3, 1983; or

"(B) if the age of retirement was not in effect under applicable State or local law on March 3, 1983, 55 years of age; and".

SEC. 3. STUDY AND GUIDELINES FOR PERFORMANCE TESTS.

(a) **STUDY.**—Not later than 3 years after the date of enactment of this Act, the Chairman of the Equal Employment Opportunity Commission (in this section referred to as "the Chairman") shall conduct, directly or by contract, a study that will include—

(1) a list and description of all tests available for the assessment of abilities important for completion of public safety tasks performed by law enforcement officers and firefighters,

(2) a list of such public safety tasks for which adequate tests do not exist,

(3) a description of the technical characteristics that performance tests must meet to be compatible with applicable Federal civil rights Acts and policies,

(4) a description of the alternative methods available for determining minimally acceptable performance standards on the tests described in paragraph (1),

(5) a description of the administrative standards that should be met in the administration, scoring, and score interpretation of the tests described in paragraph (1), and

(6) an examination of the extent to which the tests described in paragraph (1) are cost effective, safe, and comply with Federal civil rights Acts and regulations.

(b) **ADVISORY GUIDELINES.**—Not later than 4 years after the date of enactment of this Act, the Chairman shall develop and issue, based on the results of the study required by subsection (a), advisory guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of law enforcement officers and

firefighters to perform the requirements of their jobs.

(c) **CONSULTATION REQUIREMENT; OPPORTUNITY FOR PUBLIC COMMENT.**—(1) The Chairman shall, during the conduct of the study required by subsection (a), consult with—

(A) the United States Fire Administration,

(B) the Federal Emergency Management Agency,

(C) organizations that represent law enforcement officers, firefighters, and their employers, and

(D) organizations that represent older individuals.

(2) Before issuing the advisory guidelines required in subsection (b), the Chairman shall allow for public comment on the proposed guidelines.

(d) **DEVELOPMENT OF STANDARDS FOR WELLNESS PROGRAMS.**—Not later than 2 years after the date of the enactment of this Act, the Chairman shall proposed advisory standards for wellness programs for law enforcement officers and firefighters.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$5,000,000.

SEC. 4. EFFECTIVE DATES.

(a) **GENERAL EFFECTIVE DATE.**—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) **SPECIAL EFFECTIVE DATE.**—Section 2(b)(1) shall take effect on December 31, 1993.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. FAWELL] will be recognized for 20 minutes, and the gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. FAWELL].

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

Mr. Speaker, the bill we are considering today, the Age Discrimination in Employment Amendments of 1995, would restore the public safety exemption under the Age Discrimination in Employment Act [ADEA] and permit police and fire departments to use maximum hiring and mandatory retirement ages as part of their overall personnel policies. When the upper age limit for coverage under the ADEA was removed in 1986, the use of such age criteria was made generally impermissible under the act. Legislation to restore the public safety exemption was twice considered and passed by the House during the last Congress, but failed to clear the Senate.

H.R. 849 amends section 4 of the ADEA to allow, but not require, State and local governments that used age-based hiring and retirement policies for law enforcement officers and firefighters as part of a bona fide hiring or retirement plan as of March 3, 1983, to continue to use such policies. It also amends section 4 to allow States and local governments that either did not use or stopped using age-based hiring or retirement policies to adopt such policies with the proviso that the mandatory retirement age be not less than 55 years of age. In addition, H.R. 849 directs the EEOC to identify particular types of physical and mental fitness tests that are valid measures of the ability and competency of public safety officers to perform their jobs and to

promulgate guidelines to assist State and local governments in the administration and the use of such tests.

The flexibility to use age-based criteria as part of an overall personnel policy is being sought by both management and labor in the public safety field. The Subcommittee on Employer-Employee Relations received compelling testimony from organizations representing rank-and-file firefighters and police officers, as well as local government, arguing that age was an effective proxy for job fitness in these extremely dangerous and physically demanding occupations. These organizations contend that tests of physical and mental fitness have not proven a feasible alternative to an age proxy because such tests do not replicate the stress inherent in an actual emergency. Testing also places these organizations in the bind that many private sector employers find themselves in—namely, that they must use tests to avoid the use of arbitrary selection criteria, but every test they select is subject to challenge for its other discriminatory effects and for its job relatedness.

I find persuasive the arguments of these law enforcement and firefighting organizations which, after all, represent those on the frontlines of public safety. I do not feel that we can discount their judgment and there is obviously a commonsense recognition that there is some decline in physical ability with age. The potential threat to public safety posed by the expiration of the exemption demands that the Congress act to allow State and local governments closest to the needs of law enforcement and firefighting to make their own decisions about hiring and retirement policies.

I might add that I strongly support the protections against arbitrary age discrimination inherent in the ADEA. The public safety field is one of the rare exceptions where one's age is relevant to one's ability to perform effectively as a firefighter or law enforcement officer. Perhaps at some point, the age proxy will no longer be necessary and effective tests will be available. As I mentioned, to that end, the bill we are considering today directs the Equal Employment Opportunity Commission [EEOC] to develop and to issue advisory guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of law enforcement officers and firefighters to perform the requirements of their jobs. Until the point that adequate tests are in place however, I feel that the public safety exemption to the ADEA is necessary and that H.R. 849 should be quickly enacted. I urge the support of the legislation.

Mr. Speaker, I would also very much like to thank the gentleman from New York [Mr. OWENS], who did quite a lot of work on this bill last year, and the gentleman from California [Mr. MARTINEZ] for their longstanding support