were Reps. Rosa DeLauro (D–Conn.), Dick Durbin (D–Ill.) and Frank Pallone (D–N.J.). Day after day, with no encouragement from their president and with the unconcealed contempt of the president's minions, congressional Democrats repeated the charge and, in the process, changed political history.

Consider these numbers. In June of 1995, barely six months into the Republican Revolution, according to a Wall Street Journal-NBC News poll, the most Republican-identified age group in the electorate were voters over the age of 65. Not surprisingly, these same older voters were the strongest generational supporters of the GOP agenda.

Just 13 months later, in July of 1996, there had occurred absolutely no change in party identification of all voters between the ages of 18 and 49. But among voters over the age of 65, there had taken place a 20 percent swing from the Republicans to the Democrats. Among these older voters, support for the GOP agenda had plummeted by 23 percent. At the same time, for all voters under the age of 65, the corresponding drop in support for the GOP agenda had been within the poll's margin of error. Every analysis attributed the huge shift among over-65 voters not to Clinton's endorsement of school uniforms or teenage curfews but to his opposition to the Republicans' using reductions in Medicare to finance Republican tax cuts.

All through 1995, Clinton, strongly urged by Dick Morris, tried to reach a budget compromise with the Republican majority on Capitol Hill. The president dearly wanted a deal that could win the backing of 100 House Democrats. But by then, because the Democratic leadership's case had been made so effectively, both in the country and in Congress, there was no way half the House Democrats could support a budget compromise blessed by Gingrich and Majority Leader Dick Armey (R–Tex.). The steel in Clinton's spine was put there by House Democrats.

Why were such successful politicians as Gingrich and Armey so tone deaf to the popular Democratic chorus on Medicare and tax cuts?

One explanation for the apparent GOP obtuseness could be found in the Census Bureau. According to the most recent figures, when all of the 435 congressional districts are ranked by percentage of their population aged 65 and over, all but one of the nine districts with the fewest voters over 65 are held by Republicans. Ninth from the bottom is the district of House GOP Whip Tom DeLay of Texas. Fifth lowest is House Ways and Means Chairman Bill Archer, also of Texas. Fourth lowest is Gingrich himself, and the House member representing the second lowest number of senior voters in the United States is Armey. These poor Republicans just don't know that many voters on Medicare.

So, if credit or blame is to be given for Clinton's ''standing on principle'' on Medicare and taxes, and consequently rising in the polls, then history requires that it be given to those liberal House Democrats.

INTRODUCTION OF THE MIGRATORY BIRD TREATY REFORM ACT OF 1996

HON. DON YOUNG
OF ALASKA
IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1996

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce today the Migratory Bird Treaty Reform Act of 1996.

It has been nearly 80 years since the Congress enacted the Migratory Bird Treaty Act [MBTA]. Since that time, there have been numerous congressional hearings and the establishment of a distinguished Law Enforcement Advisory Commission.

What there has not been is any meaningful effort to revise or update this law. In my judgment, it is time to carefully review this statute and its accompanying regulations, and to change those provisions which are unfairly penalizing many law-abiding citizens. While this reform is long overdue, my bill will in no way undermine the fundamental goal of protecting migratory bird resources.

Before explaining this legislation, I would like to provide my colleagues with some background on this issue. In 1918, Congress enacted the Migratory Bird Treaty Act, which implemented the 1916 Convention for the Protection of Migratory Birds between Canada and the United States. This Convention has now been expanded to include Mexico and Russia. The Convention and the act are designed to protect and manage migratory birds as well as regulate the taking of that renewable resource.

As part of appropriate regulation and management, certain restrictions have been imposed over the years on the taking of migratory birds by hunters. Many of these prohibitions were recommended by sportsmen who felt that certain restrictions were necessary to protect and manage migratory bird populations. Those regulations have clearly had a positive impact and have helped to maintain viable migratory bird populations, despite the loss of natural habitat due to agricultural expansion and industrial development.

Since the passage of the act and the development of the regulatory scheme, various legal issues have been raised and most have been resolved. However, one restriction regarding the taking of migratory birds which have generated more controversy than any other is the restriction that prohibits hunting migratory birds ''by the aid of baiting, or on or over any baited area''. This controversy has not been satisfactorily resolved. This prohibition has been at issue for two reasons.

First, by case law in the Federal courts, a doctrine has developed where the actual guilt or innocence of an individual hunting migratory birds on a baited field is not an issue. If it is determined that bait is present, and the hunter is there, he is guilty under the doctrine of strict liability, regardless of whether there was knowledge or intent. Courts have ruled that it is not relevant that the hunter did not know or could not have reasonably known bait was present. Understandably, there has been much concern over the injustice of this doctrine.

A second point of controversy is the related issue of the zone of influence that such bait has in actually luring or attracting migratory birds to a hunting site. Currently, the courts have developed the zone of influence concept in which limitation is defined by whether such bait could act as an effective lure or attraction and without regard for any other factors that may have influenced the migratory bird. Again, a number of hunters have been unfairly prosecuted by the blanket application of this doctrine.

Under the current regulations, grains scattered as a result of agricultural pursuits are not considered bait as the term is used. The courts and the U.S. Fish and Wildlife Service, Fish and Wildlife Service, Division of Law Enforcement, however, disagree on what constitutes normal agricultural planting or harvesting or the result of bona fide agricultural operations or procedures.

Through hearings, the Congress has addressed various aspects of the baiting issue on many occasions during the last three decades. The baiting issue has also been addressed by a Fish and Wildlife Service appointed Law Advisory Commission. Sadly, absolutely nothing has resulted from these examinations and the problems still persist.

On May 15, 1996, a hearing was held before the House Resources Committee, which I chair, to review the problems associated with the MBTA regulations, their enforcement, and the case law that has resulted from judicial rulings. It was abundantly clear from this, and previous hearings, that the time has come for the Congress to substantively address the problem through comprehensive legislation. From a historical review, it is obvious that the problems have not, and will not, be corrected either administratively or by future judicial rulings.

Therefore, the Congress has an obligation to present rational and concise solutions to correct the injustices that now exist. It is also important that guidance be provided to law enforcement officials who are charged with the responsibility of enforcing the law and the accompanying regulations.

It must be underscored that sportsmen, law enforcement officials and, indeed, Members of Congress all share the fundamental intent of the Migratory Bird Treaty Act that our migratory bird resources must be protected from overexploitation. As mentioned above, many of the regulations restricting the methods and manner of taking migratory birds were suggested by sportsmen. Sportsmen have historically demonstrated that they are dedicated to the wise use of renewable wildlife resources through reasoned management and enforcement of appropriate regulations.

Over the years, various prohibitions on the manner and methods of taking migratory birds have been embodied in regulations. Many of these prohibitions are decades old and have the support of all persons concerned with protecting migratory birds. Consequently, it would be prudent to put these regulations in a statute where all restrictions are contained in a single document. The Secretary of the Interior annually makes certain findings regarding bag limits, duration of seasons, and other findings. The proposed legislation does not restrict or alter that duty nor does it prohibit additional regulation of migratory bird hunting, including hunting methods. However, this proposed legislation does embody all of the current regulations promulgated over the years and contained in the Code of Federal Regulations.

Second, the fundamental purpose of the Migratory Bird Treaty Reform Act of 1996 is to address the baiting issue. Under section 3 of the proposed legislation, no person may take migratory birds by the aid of bait, or on or over bait, where that person knew or should have known the bait was present. The provision removes the strict liability interpretation made first by a Federal court in Kentucky in 1939, and presently followed by a majority, but not all, of Federal courts. By this amendment, uniformity in the application of the prohibition is established.

As important, however, is the establishment of a standard that permits a determination of the actual guilt of the defendant. If the facts demonstrate that the hunter knew or should have known of the alleged bait, liability—which includes fines and potential incarceration—will be imposed. If by the evidence, however, the hunter could not have reasonably known that the alleged bait was present, liability would not be imposed and guilt will not be assessed. This would be a question of fact to be determined by the court based on the totality of the evidence presented.

Furthermore, under section 3 of the proposed legislation, the exceptions to baiting prohibitions contained in Federal regulations have been amended to permit exemption for grains found on a hunting site as a result of normal agricultural planting and harvesting as well as normal agricultural operations and procedures. The proposed amendment maintains the intent of the current exceptions contained in the regulations but removes ambiguity and establishes guidelines for both the hunter and the law enforcement official.

To determine what is a normal agricultural operation and procedure in a given region, the Fish and Wildlife Service will be required to annually publish in the Federal Register a notice for public comment defining what is a normal agricultural operation or procedure in given areas. This determination is to be made only after meaningful consultation with relevant State and Federal agencies and an opportunity for public comment. Again, the goal of this effort is to provide uniformity and clarity to landowners and hunters so that they know what is a normal agricultural operation for their respective region.

In addition, the proposed legislation permits the scattering of various substances, like grains and seeds, which would now be considered bait, if it is done to feed farm animals and is a normal agricultural operation or procedure in a given area, as recognized by the Fish and Wildlife Service and published in the Federal Register. This change will clarify case law where it was determined that such an agricultural procedure was not considered an exception since it did not constitute planting or harvesting.

Finally, the term bait is defined as the ''intentional'' placing of the offending grain, salt, or other feed. This concept removes from violation the accidental appearance of bait at or near the hunting venue. There have been cases where hunters have been charged under the baiting regulations for grain found on a public road obviously spilled from delivery to another site. It also removes as a violation the minimum evidence of foreign grain found in a field where it was proved to be present as the result of inadvertently being mixed in with other seed grain by the seller of the seed. Further, it removes from violation such cases where the minimal foreign grain came to be present as a result of being deposited by animals or running water. These examples are actual cases where citations were given for violations of the baiting regulations.

Under the proposed legislation, the hunter would also be permitted to introduce evidence at trial as to what degree the alleged bait acted as the lure or attraction to the migratory birds in a given area. In cases where 13 kernels of corn were found in a pond in the middle of a 300-acre field planted in corn or 34 kernels of corn found in a wheat field next to a fresh water river, the bait was clearly not the reason migratory birds were in the hunting area. First, it was not intentionally placed there and, second, it could not be considered an effective lure or attraction under the factual circumstances. Again, however, these are questions of fact to be determined in a court of law. Currently, evidence of these matters is entirely excluded as irrelevant under the strict liability doctrine.

In 1934, Congress enacted the Migratory Bird Conservation Act as a mechanism to provide badly needed funds to purchase suitable habitat for migratory birds. Today, that need still exists and section 4 of my legislation will require that all fines and penalties collected under the MBTA will be deposited into the Migratory Bird Conservation Fund. This is an essential reform and it is critical to the long-term survival of our migratory bird populations.

Finally, this measure proposes that seized personal property can be returned to the owner by way of a bond or other surety, prior to trial, at the discretion of the court.

Mr. Speaker, the purpose of the proposed Migratory Bird Treaty Reform Act is to provide clear guidance to landowners, hunters, law enforcement officials, and the courts on what the restrictions are on the taking of migratory birds. The conflict within the Federal judicial system and the inconsistent application of enforcement within the U.S. Fish and Wildlife Service must be resolved. The proposed legislation accomplishes that objective without, in any manner, weakening the intent of current restrictions on the method and manner of taking migratory birds; nor do the proposed provisions weaken protection of the resource. Finally, the proposed legislation does not alter or restrict the Secretary of the Interior's ability to promulgate annual regulations nor inhibit the issuance of further restrictions on the taking of migratory birds.

While there may be only a few legislative days left in this session, I am introducing this legislation to stimulate debate on this issue. I would welcome the input and recommendations of all interested parties. I intend to reintroduce this measure early in the new Congress. Let me be clear The intent of this proposal is to provide clarity for both the hunter and the law enforcement community without undermining the protection of our precious migratory bird resources. I urge my colleagues to carefully examine the Migratory Bird Treaty Reform Act of 1996.

READING LIST

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 12, 1996

Mr. ENGEL. Mr. Speaker, I recommend to my colleagues this column and reading list prepared by Neal Sher, former Director of the Department of Justice's Office of Special Investigations and, more recently, executive director of the American Israel Public Affairs Committee. While Mr. Sher suggested these books for summer reading, I propose to my colleagues and all Americans that they be read year round.

Mr. Speaker, I ask unanimous consent that the text of an article by Neal Sher entitled ''A Congressional Jewish Summer Reading List'' be printed at this point in the RECORD.

A CONGRESSIONAL JEWISH SUMMER READING LIST

(By Neal Sher)

By all accounts, Israeli Prime Minister Benjamin Netanyahu received a warm and enthusiastic reception on Capitol Hill earlier this month. His address to a joint meeting of the House and Senate was a smashing success as he was repeatedly interrupted by applause and standing ovations.

The image widely conveyed—the speech was broadcast worldwide—was that of a love affair between Israel's new leader and the American Congress. Nothing wrong with that.

Moreover, I am told that Netanyahu's private meetings with congressional leadership also went exceedingly well. The prime minister not only stayed on messages (he conceded nothing with respect to his views on the peace process, to the chagrin of some U.S. officials), but also, his experience with and understanding of our political scene enabled him to impress and charm his hosts. No doubt about it: Bibi's first foray to the Hill as prime minister could not have gone better.

For those of us who care deeply about Israel, this is nothing but good news. But let's not fool ourselves. The prime minister's reception was part of the obligatory honeymoon period. As Netanyahu undoubtedly knows, it will take much more than personal charm and gravitas to keep this, and any future, Congress staunchly pro-Israel. Although no one can predict with certainty what the next Middle East developments will be, there are enough hot-button issues (the future of settlements, Jerusalem, terrorism) to be concerned about the potential for tension in U.S.-Israel relations.

To be sure, the Clinton Administration has been the most pro-Israel administration in history. No contest there.

But the White House is only part of the equation. The key battles are fought in the halls of Congress, where we must not lose sight of an essential fact of political life: The pro-Israel agenda needs constant attention and nurturing. This becomes clear when one analyzes the makeup of Congress: well over 50 percent of members have been elected within the last six years, and that number is certain to grow after November.

More critically, the overwhelming majority were born after the Holocaust and the creation of the State of Israel. We know these to be turning points in the history of our people; our legislators may view them as simply historical events with which they cannot identify.

Although that is understandable, the fact remains that many of our lawmakers lack a crucial historical perspective. Dwindling is the number of veteran members who lived through World War II and/or the tough formative years of Israel's existence. Their support for Israel was much more from the ''gut,'' as we say; they felt it in their kishkas.

This void of historical and emotional background among the younger members can be filled only through constant attention and education by the pro-Israel community. To that end, I would like to respectfully recommend to members of Congress—as they prepare to leave Washington from the summer recess—a few books for vacation reading. There is, of course, a great wealth of material on Israel and Jewish history and, no doubt, every reader has his or her own favorites. My suggestions are, I believe, excellent starting points because they are not only powerful resources, they are good reads as well.