TRUTH IN EMPLOYMENT ACT

The PRESIDING OFFICER (Mr. SESSIONS). Under the previous order, the time until 1 p.m. shall be equally divided between the Senator from Arkansas, Mr. HUTCHINSON, and the Senator from Massachusetts, Mr. KENNEDY, or his designee, for debate relating to the Motion to Proceed to S. 1981.

The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I rise to speak on the S. 1981 legislation. This legislation will enable thousands of businesses in Arkansas and across the Nation to avoid the insidious and unscrupulous practice known as salting which is literally crippling thousands of small businesses across this country.

The Truth in Employment Act inserts a provision in the National Labor Relations Act establishing that an employer is not required to hire a person seeking employment for the primary purpose of furthering the objectives of an organization other than that of the employer. This measure is not intended to undermine the legitimate rights or protections currently in law for workers in this country enabling them to organize. Employers will gain no ability to discriminate against union membership or activities. This bill only seeks to stop the destructive practice of salting. In fact, I will just read the last provision in the bill itself, which guarantees the protections for workers to organize, because the argument will be made, opponents of this legislation will say, that this is somehow trying to undermine the right of workers to organize.

So this provision says:

> Nothing in the bill shall affect the rights and responsibilities under this Act of any employee who is or was a bona fide employee applicant, including the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid protection.

So this bill is clearly not designed to harm workers or to undermine their ability to organize. That provision passed the House of Representatives unanimously, incidentally. I believe it has broad support in the Senate as well. But there is a practice that is becoming all too common across this country, that is both immoral and insidious and is not a legitimate organizing tactic, and it needs to be outlawed. The bill does not change the definition of ''employee.'' It does not overturn the decisions of the U.S. Supreme Court.

Mr. President, I rise today to speak on an issue that I think is of common sense and fairness. Would any person intentionally bring wanton destruction upon his or her own home? Would a homeowner spend hard-earned money for a colony of termites and let them loose in his or her house, leaving them free to gnaw away at the equity he or she had spent years building up in a home or property? Certainly no one would commit such an irrational attack of self-destruction. No one would willfully and deliberately bring thousands of dollars of damage on himself. Instead, the homeowner would take every precaution to preserve the structure of his home, keeping out ruinous influences. Yet, today, in a similar situation, small business owners nationwide are prevented from defending their own companies from pernicious attacks known as salting.

What is salting? Paid and unpaid union agents infiltrate nonunion businesses under the pretense—the pretense of seeking employment. And then, at that point, employers are caught in a dilemma, facing charges if they refuse union labor and facing charges if they hire these salts. So if they don't hire, unfair labor practices are filed, discrimination claims are filed against the employer. If they do hire them, they then face, in effect, termites in their own business, eating away at the solvency of their own enterprise. Once on the job, these salts set about sabotaging the company through workplace disruptions and a battery of frivolous charges to the Equal Employment Opportunity Commission, the National Labor Relations Board, or by creating OSHA violations and then reporting those violations to OSHA.

Employers who try to fire them face yet another litany of false charges. Defending against these charges costs money in legal fees, costs time in lost productivity and costs a company's reputation through negative publicity. Yet, to add insult to injury, employers are often forced to pay large damage awards or settlements because they cannot afford the high legal fees needed for justice to be served.

Employers have little or no defense against these relentless—relentless—assaults. Instead, they are forced to invite destruction into their companies and can only stand by, it seems, helplessly as years of hard work and investment are devoured before their eyes.

In my home State of Arkansas, George Smith, the president of Little Rock Electrical Contractors, has been the victim of salting campaigns. Let me just tell you his story.

It is a family-owned business and a merit shop contractor, hiring both union and nonunion labor. Mr. Smith never expected to face charges of unfair labor practices from people he didn't even hire.

At a company site in Louisiana, two men drove up to Little Rock and asked if the company was taking applications. They were told no, and they drove off. Five months later, Mr. Smith was notified that charges of discrimination had been filed against him by the NLRB. He subsequently hired a labor attorney who assured him that he could win, as the charges had no merit whatsoever, that justice would be served.

Unfortunately, the cost of the 2-day hearing would be $15,000 in order to have justice served. And since the unions would appeal if Mr. Smith won, additional costs of up to $8,000 could be almost guaranteed.

On the other hand, the cost of settlement with these two nonemployees who had filed the claim was $3,000 for each man. So, in the end, Mr. Smith chose the less expensive option. I quote what he said:

> The reason that we paid was real simple. It was pure mathematics. [If] it cost me $23,000 to win and $6,000 to lose: I can't afford to win.

To rub salt into the wounds, so to speak, copies of these settlement checks appeared on one of his worksites in North Carolina with the statement saying that this was the result of employer interference with employee rights.

Mr. Smith, a hard-working American trying to run an honest business, lost both money and company stature. But this assault was not unique. In 1 year, Little Rock Electrical has faced 72 such charges to the tune of $80,000 in legal fees.

Mr. President, that is wrong. That is not justice, it is an injustice. This problem is not unique to Arkansas companies. It is happening all across America, from Cape Elizabeth, ME, where Cindy and Don Mailman, owners of Bay Electric Company, suffered 14 erroneous, meritless charges, and $100,000 in legal fees over 4 years; to Modesto, CA, where Jim Blayblock of Blayblock Electric faced an intense barrage of salting; to Delano, MN, where Terrance Korthof of Wright Electric has lost $150,000 in legal fees and $200,000 to $300,000 in wasted time for 15 baseless charges; to Austin, TX, where Randy Pomikahl's company, Randall Electric, has been targeted.

My point is, from the East Coast to the West Coast, from the Canadian border to Texas in the South we see these salting campaigns. Salts are operating across the country not only in electrical companies, but in steel companies, mechanical companies, building companies, and I predict it is going to be expanded and proliferate. We are going to see it targeting small business in every industry unless we address it legislatively. Mr. President, it is very much a national problem.

I have on the floor of the Senate this morning a chart that illustrates how this is a national problem. Here are some examples of salting cases around the country. Carmel, IN, Gaylor Electric faced 96 charges. Ultimately, the courts dismissed all 96. All 96 of these charges were dismissed without merit, but it cost Gaylor Electric $250,000 annually to defend themselves against this salting campaign.

Union, MO, 48 charges were filed, 47 were dismissed, one was settled for $200. But in legal fees, $150,000 to defend their company against these frivolous charges.

In Clearfield, PA, the R.D. Goss Company had 15 to 20 charges. All but one of those charges were dismissed, but it

cost that company $75,000 in legal fees plus lost time, and they ultimately were forced out of business, an example of many businesses that have been forced to close their doors because of their inability to pay for the legal help to defend themselves against these kinds of campaigns. This small businessman in Clearfield, PA, had operated for 38 years until finally having to close their doors because of the salting campaign against them.

These travesties of justice are not simply random acts by a small subversive group. Instead, they are calculated attacks on nonunion companies often, unfortunately, with NLRB complicity. In its most innocuous form, salting consists of gaining employment, not to work, but solely for the purpose of organizing labor. A person has a right, the courts have said and legitimately so, to apply for a job even though they want to go in and help organize for union activity. They don't have a right, I believe, legitimately, morally, or ethically, though it is still illegal, to go in, apply for a job, never intending to work, but simply for the purpose of filing these kinds of frivolous claims. That is in its most innocuous form. The common and prescribed practice is to strike economic pressure points in a company, leaving that company virtually paralyzed.

In their own words, from the IEBW organizing manual, this is what they say:

> [The goal of salting is to] threaten or actually apply the economic pressure necessary to cause the employer to . . . raise his prices to recoup additional costs, scale back his business activities, leave the union's jurisdiction, and go out of business.

That is not where the effort is to go in and organize. That is where the effort is to go in, hit the economic pressure points and destroy the company. The international vice president of the United Food and Commercial Workers Union, Tom McNutt, has been quoted as saying:

> If we can't organize them, the best thing to do is to erode their business as much as possible.

The goal is not to organize. ''If we can't organize, let's destroy the company.''

I have another chart that I think will illustrate this very point, and that is that the procedures for salting are not left to chance, that unions very carefully instruct members how they ought to go about salting. This is a sample checklist for salts put out by the International Brotherhood of Electrical Workers, Local 1547 in Anchorage, AK. If you will notice, and we will read some of these points, this is their initial contact, when they make contact with a selected target; in other words, the business that is the target of the campaign:

> If the target doesn't have reason to know that you are a union member you do not want to reflect that on your application. You can change the status of your prior employment to reflect past non-union employment * * *

Then they actually counsel their salts to lie on their employment application.

> * * * reduce the rate of [your former] pay [your hourly wage] to $12.00 or $13.00 with no benefits [because] if you show a high rate of pay and benefits * * * the target will * * * become suspicious.

So all through the various points that they make, all through their recommendations, they are urging deception when these salts go in.

> List jobs other than heavy industrial sites such as TVA jobs, government jobs, or jobs known to be union in union areas.

Deceive the potential employer.

> In listing your electrical education we recommend that you do not list JATC or IBEW.

Just do not tell them of any kind of—on and on you find this effort to simply deceive in order to get in and perform the insidious and pernicious activity, not of organizing, but of destroying the economic viability of the company.

There are more union tactics that are described by local 1547: Fabricating employment history and so forth. These tactics are not overt methods of organizing, but rather they are covert methods of deceiving and sabotaging the targeted company. Unfortunately, the NLRB and other Government entities have unwittingly become an accomplice in these salting campaigns, because the charges are brought before them, and Government lawyers defend the salts.

So we talk about the price tag. It is not just the price tag of legal fees for these companies. It is not just the price tag of lost time and productivity. It is not just the price tag of losing a company's reputation. It is also the price tag that is imposed upon the American taxpayer, because we pay for the lawyers that are defending these salts when it goes before the NLRB. So by extension, the American taxpayers have been made a participant in these guerrilla warfare operations, since who but the American taxpayer pays the salaries of these Government lawyers.

Mr. President, I think that it is absurd. And in return for their money, the American taxpayers get a return on their investment; and that return is in higher consumer prices for products and services, the costs of which have been driven up by higher operating expenses due to none other than these kinds of salting campaigns and those abuses. Not the legitimate right to organize, but it is these abuses that we have an opportunity to bring a halt to.

Under current law, employers are fully exposed to the corrosive effects of salting. Mr. President, I emphasize again, I am not opposed to labor organizing. It is, in fact, one of the rights of workers under the law. But I am against the abuse of the system, the abuse of small business owners and the abuse of the American taxpayers.

The Truth in Employment Act preserves the rights of employees and employers. The provisions are very simple. The Truth in Employment Act amends the National Labor Relations Act so that an employer is not required to employ any person who is not a bona fide employee applicant, meaning that this person wants to be employed with the primary purpose of furthering another employment or agency status. In other words, when they are coming in to apply, they are not coming in primarily because they want a job and they want a paycheck and they want to perform productive labor. They are coming in primarily for the purpose of furthering the goals and objectives of another organization, whether they are paid or unpaid. I think that that is what we must guard against—no destructive salting.

The bill also specifically protects the rights of bona fide employees to self-organization, labor organization membership, and collective bargaining. It does not change the definition of the employee, and it does not overturn the decisions of the U.S. Supreme Court.

The Truth in Employment Act begins, a little bit, to put some balance back into management-labor relations. And it begins to level the playing field of labor relations, protecting the rights of employers and employees while promoting the honest and harmonious hiring of employees.

I think, Mr. President, the House took a very positive step for the benefit of all Americans by passing their version of this bill on March 26, 1998. This evening we will have a chance to do the same. And the language in the Truth in Employment Act that we will be voting on today is precisely the language passed by the U.S. House of Representatives.

The question arises, though—I am sure we are going to hear this during the course of debate today—if salts enter into jobs surreptitiously, how can this legislation work? How can salts be detected? Under the Truth in Employment Act, the act of seeking employment in the furtherance of another employment or agency status no longer is a ''protected activity.'' Salting will not be a protected action. In the case against the employer, the general counsel of the NLRB will have to show that the employee is, in fact, bona fide, that the employee did not seek employment for the purpose of salting. In this demonstration, the general counsel will prove that the employee would have sought employment even in the absence of his desire to conduct a salting campaign.

The employers will have the opportunity to present contrary evidence. Employers will no longer be squeezed in the vices of the law. They will no longer be forced to hire salts or fear dismissing salts for their disruptive actions. Employers will be able to hire job applicants who are actually interested in working and contributing do the company for the salary they receive.

I know that some of my colleagues do not support this legislation and will try to frame this legislation as being antilabor. It is not. As I mentioned, the

Truth in Employment Act specifically protects the rights of bona fide employees to self-organization, labor organization membership, and collective bargaining. It does not in any way undermine that right. But it will stop the proliferation of salting campaigns that have precipitated the need for the legislation. This, frankly, has become the new tactic of choice.

Others may suggest these unions would not undertake these tactics unless there were something seriously wrong with the system and that salting is like the last gasp of breath from the sea of desperation. But I think if you look at the economy, you find the real answer.

Apart from the recent ups and downs and antics of the stock market, our economy has been doing very well. Over 13 million new jobs have been created in the last 5 years. Unemployment is at a 24-year low—4.5 percent. The economy is growing. And while the economy is growing, union membership is declining; in fact, it is even plummeting.

The Bureau of Labor Statistics reported recently that unions lost 159,000 members in 1997 alone. So as a result of strong employment conditions and job satisfaction, labor unions are finding it increasingly difficult to identify workplaces that need and want labor representation. So in that circumstance, in that economic environment, it is regrettable that some labor unions have resorted to disingenuous techniques to cope with their situation.

Mr. President, in this country we often speak of rights—the right to free speech, the right to free assembly, the right to bear arms, the right to petition the Government for a redress of grievances. But with each right that we enjoy in this great country, we also face some responsibilities. People who assemble for a cause have the responsibility not to be violent or to be destructive. Journalists have a responsibility to print what is true and newsworthy.

When a parent grants a child the freedom to use the phone or to use the car, he expects the child not to make lengthy long distance calls to far out-of-the-way places, or to drive the car at high speeds or under the influence of alcohol. It is this responsibility that we exercise with each freedom, with each right that allows us to have these very same freedoms. Mr. President, the right of laborers to organize must not be abused.

Salting is a costly—costly—abuse of legal technicalities. It rarely ever results in actual organization. Instead, it costs small business owners time, money and oftentimes its reputation that has been built and earned through a whole lifetime. It costs American taxpayers money in legal costs and higher consumer prices. It is dishonest. It is unjust, and it penalizes the innocent.

Mr. President, the Truth in Employment Act calls for just that—truth in employment. It calls for common sense and honesty in labor relations. It calls for job applicants to be honest about their intentions and to apply only if they actually want to work for the company. It stops only dishonesty. It stops only injustice. It stops only destructive and unethical practices. It calls for a simple change in the law so that small business owners do not have to shoot themselves in the foot. It calls for fairness. I ask my colleagues to support this legislation when we have the opportunity to vote on it later today.

Mr. President, 32 different trade associations have endorsed the Truth in Employment Act. I will not read them all, but some of the major trade associations supporting this legislation include the American Trucking Association, the Associated Builders and Contractors, International Mass Retail Association, the National Association of Convenience Stores, the National Association of Home Builders, the National Association of Manufacturers support this, as well as the NFIB, National Federation of Independent Business, the National Grocers Association, the National Mining Association, the National Restaurant Association, the National Retail Federation and the U.S. Chamber of Commerce—32 different associations have said, ''We realize this is an insidious, unscrupulous practice that will proliferate unless we stop it legislatively now.''

While it may now be electrical contractors, small builders and small businesses facing this, unless the insidious practice is stopped, we will see it used in a calculating way against targeted industries and targeted businesses across the economic spectrum.

This is a great opportunity for us, as we seek to invoke cloture on this, this evening. We need 60 votes. I ask all of my colleagues in the U.S. Senate to carefully consider the simple change that this will make in the law, but the profound change it would have in restoring fairness in the workplace.

Mr. President, how much time remains?

The PRESIDING OFFICER. Thirty-two minutes 50 seconds.

Mr. HUTCHINSON. I ask unanimous consent, as I request a quorum call, that the quorum call time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, while the clock is burning, I think it is an appropriate time for me to take a few moments here and relate and include in the RECORD some of the correspondence I have been privy to concerning what small businesses are facing under the salting campaigns aimed against them and targeting them. These are only samples, but I think they are good samples of businesses across the country. I hope the Senators from these various States we are looking at will think seriously about what their constituents are facing in these targeting campaigns.

This particular letter is from Kenny Electric Service and was addressed to the Honorable DAN SCHAEFER in the State of Colorado. Colorado, of course, like all States across the country, is facing these kinds of campaigns. And because of the building movement in Colorado, I think they have been a particular target. They have many electrical contractors, building contractors, and small business people of various sorts who are facing this and are involved in the building trades industry.

I will read the last paragraph in which the letter states:

> Kenny Electric Service, Inc. has experienced financial losses of over $1 million as a result of union tactics and harassment. Attached are examples of harassment which caused these losses. Your help with the legislation will sincerely be appreciated.

Then they stipulate some of the expenses that they have incurred. He said:

> We had a van with 7 union members arrive at our office to respond to an ad that we ran for an electrician. They were followed by the director of organizing, who was video taping the whole process.
>
> The above resulted in an NLRB charge, even though some of them were indeed hired. The NLRB charge was ultimately removed [and dropped] by the union [itself].
>
> The union members filed frivolous and sometimes false OSHA claims. For instance, one day the contractor's office trailer was locked up at 7 a.m. The trailer had the drinking water in it for the job. The contractor arrived at 7:15 a.m. and opened the trailer. The union member had already called OSHA and filed the complaint because water was not available for 15 minutes. It took me 3 hours to file the appropriate OSHA report to avoid a fine and a claim.

Then he goes on with another full page of similar examples of the frivolous claims that were filed against their company and the over $1 million in costs that were incurred.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

KENNY ELECTRIC SERVICE
Englewood CO, October 8, 1997.

Hon. DAN SCHAEFER,
Englewood, CO.

DEAR CONGRESSMAN SCHAEFER: I apologize for not being able to meet with you next Monday to discuss the issue of Salting Abuse. Salting Abuse is the placing of union members of agents in a nonunion facility to harass or disrupt company operations, apply economic pressure, increase operating and legal costs, scale back business activities, or even put the company out of business. Salting is being used in bad faith as a harassment technique, largely by filing numerous

frivolous NLRB complaints against open shop contractors. This causes the contractor delays and expenses in legal fees to contest these charges, and may jeopardize their work on a project through delays and excessive problems that the owner may not be able to endure.

I understand there is legislation in both houses of Congress to address this situation. H.R. 3211, the Truth in Employment Act, was introduced by Harris Fawell. Senator Slade Gorton has also introduced S. 1025 which is similar to H.R. 3211.

There has been compelling testimony regarding these salting abuses in three hearings held in the 104th Congress by the Economic and Educational Opportunities Committee. Several witnesses illustrated that these union agents hide behind the shield of the National Labor Relations Act, trying to destroy their employers or deliberately increase costs through various actions including sabotage and filing frivolous complaints with various federal agencies. For most of these companies, many of which were smaller businesses, the economic harm inflicted by the union's salting campaigns was devastating.

Kenny Electric Service, Inc. has experienced financial losses over $1,000,000.00 as a result of union tactics and harassment's. Attached are examples of harassment which caused these losses. Your help with legislation will sincerely be appreciated.

Sincerely,

RICK L. ELLIS,
President.

EXAMPLES

We had a van with 7 union members arrive at our office to respond to an ad we ran for an electrician. They were followed by the director of organizing who was video taping the whole process.

The above resulted in an N.L.R.B. charge even though some of them were indeed hired. The N.L.R.B. charge was ultimately removed by the union.

The union members hired salted our projects and tried to promote the union.

The union members filed frivolous and sometimes false O.S.H.A. claims. For instance, one day the contractors office trailer was locked up at 7:00 a.m. This trailer had the drinking water in it for the job. The contractor arrived at 7:15 a.m. and opened the trailer. The union member had already called O.S.H.A. and filed a complaint because water was not available for 15 minutes. It took me 3 hours to file the appropriate O.S.H.A. report to avoid a fine and claim.

One union member filed a claim because he wasn't placed on a project with a large number of electricians. He was placed on the project closest to his house.

Two union members left work and are on economic strike.

We have had to date approximately 19 N.L.R.B. charges filed against us. A settlement was negotiated with the N.L.R.B. for dismissal of all charges.

The above items have taken over 500 hours of management to handle and deal with.

The above have effected our ability to advertise for and hire personnel that would have the company's interest and future in mind.

The union does not want to organize our company, they want to destroy our company.

We have continually trained and retrained our field personnel on the legal do's and don'ts of the salting issues. This takes away from their abilities to control and manage their projects in a manner that is in the best interest of the company.

We can no longer advertise using our company name without the threat of being harassed and salted again and again. This would only result in more N.L.R.B. charges.

The fact that we cannot actively hire new employees has effected our ability to man our projects and has ultimately stopped our ability to obtain new work.

Mr. HUTCHINSON. I have a letter from Manno Electric, Inc., from the president of that company to his Congressman, regarding forced unionism, or salting. I will read only one paragraph:

My company, Manno Electric, Inc., became a target for salting in July 1992. We are a small firm, founded in 1972, and based in Baton Rouge, Louisiana. Our business has been family-owned and operated for the past 24 years and now has annual sales of approximately $1 million and an average work force of 25 employees.

In July 1992, I hired five union members during a peak work time and laid them off when their jobs were completed in mid-August 1992. Immediately, the union filed a ULP charge claiming they were laid off because of their union affiliation.

I will not read it all, but it concludes:

To date, I have paid my attorney over $75,000 for my defense and have been ruled guilty on all charges by an administrative law judge who proudly professed he formerly represented the auto union and touted the high percentage of success in union litigation.

Once again, he is continuing to appeal. But these are the kinds of situations that these small companies are facing. That is from the State of Louisiana, Baton Rouge.

I ask unanimous consent that this letter from Manno Electric, Inc., be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MANNO ELECTRIC, INC.,
Baton Rouge, LA.

Re Forced Unionism—''Salting.''

The best kept secret by the labor unions today is their insidious organizing strategy known as ''salting.'' Salting is the practice of sending paid professional organizers and union members into non-union work places (merit shops) under the guise of seeking employment.

These ''salts'' are trained in a program called COMET, the official organizing program of the AFL–CIO. They learn to infiltrate a private business, and use tactics of harassment, project disruption, and filing frivolous unfair labor practice (ULP) charges with the National Labor Relations Board (NLRB) against their employer.

If a union organizer is turned down for employment, or dismissed by a merit shop contractor, *for any reason,* he immediately files an unfair labor practice charge with the NLRB. The strategy behind salting is to file enough ULP charges against the contractor until the company is financially devastated or joins the union. The contractor has to legally defend himself against each charge, no matter how trivial. Each NLRB complaint costs the employer an estimated $5,000 to $10,000 to defend. Litigation for the union member is paid by the taxpayer through the NLRB.

My company, Manno Electric, Inc., became a target for salting in July 1992. We are a small firm, founded in 1972, and based in Baton Rouge, Louisiana. Our business has been family owned and operated for the past 24 years and now has annual sales of approximately one million dollars and an average workforce of 25 employees.

In July 1992, I hired five union members during a peak work time and laid them off when their jobs were completed in mid-August 1992. Immediately, the union filed an ULP charge claiming they were laid off because of their union affiliation.

Twelve other union members came in and applied for employment during this time but were not hired because we had no work for them. They filed unfair labor practice charges for failure-to-hire, claiming discrimination because they were affiliated with the union. The union contends that once a member has applied for employment, you are forever bound to keep his application at the forefront or risk another ULP charge. The NLRB accepts this union theory and this is one of the biggest weapons used to abuse the contractor. At my trial in September 1993, I produced in evidence over 100 applications we had on file at that time.

In all, over 20 union activists filed frivolous charges against my company. To date, I have paid my attorney over $75,000 for my defense and have been ruled guilty on all charges by an Administrative Law Judge who proudly professed he formally represented the auto union and touted the high percentage of success in union litigation.

My trial was a mockery to justice. The judge slept repeatedly during my trial and it was painfully clear that he did not hear all of the proceedings or read the 1700 pages of transcript in making his decision. He completely ignored our witnesses' testimony and our exhibits.

The Clinton administration, through its powerful political appointments in the Labor Department, has given a ''green light'' to the labor unions, the NLRB and now the Supreme Court to exercise their power to strike a deadly blow to American enterprises and the free market system. Unions have trained their agents to use and abuse the procedures of the National Labor Relations Act (NLRA) as an offensive weapon against employers. The NLRB accepts these frivolous charges and rules with a strong bias toward labor.

The AFL–CIO has declared organizing as their top priority in an effort to revive and rebuild union membership at all costs.

The Supreme Court in its recent Town & Country unanimous decision (9–0) has also helped to encourage labor. It focused on a very narrow aspect of the law, ruling that a paid organizer is a ''bona fide'' employee. It failed to address the issue that open shops are being assaulted by union agents, intent on not recruiting new members, but on putting contractors out of business.

Today, due in part to the one and one-half years my appeal was stayed by the NLRB awaiting the Town & Country decision by the Supreme Court, my fines could exceed $500,000. In addition, the back pay and interest mounts daily and will continue to do so until I rehire the six union members that were terminated and also the seven others who merely applied but were not hired four years ago.

My business appears to be in financial ruin. This travesty of justice must be exposed so that business owners across this country can be alerted! An agent of the NLRB has even warned me that if I tried to close my business due to the inability to meet the liability, they had the right to force me to reopen.

The appellate court and, perhaps, the Supreme Court is the only recourse we have remaining. I can only pray that we do not fall victim to this new domestic terrorism.

Sincerely,

JACK L. MANNO,
President, Manno Electric, Inc.

Mr. HUTCHINSON. Then I have a letter written by Betty Tyson at T&B Metal Works, Inc. I believe it does sheet metal duct work in Jacksonville,

FL. This was addressed to the Honorable TILLIE FOWLER, a Congresswoman from Jacksonville, FL, regarding the Truth in Employment Act in 1996 in the House of Representatives, H.R. 3211.

Once again, I will not read all of this correspondence. But part of what Betty Tyson writes is the following:

T&B Metal Works, Inc. has been in business for 10 years and is a sheet metal company which fabricates and installs duct work in commercial buildings. Presently, it is unlawful for a business to refuse to hire a job applicant because he is a union organizer or union member. Therefore, we have hired several ''organizers'' from Sheet Metal Local 435 over the past 10 months (since the organizing campaign began). The problem is, these people are not trying to organize our employees—they simply do everything they can think of to disrupt our business by filing false charges, and are hiding behind the labor laws which were created to protect employees.

Then there are a number of specific details that are provided regarding the situation that T&B Metal Works face in Jacksonville, FL. I have a binder with similar letters and examples from all of the States of the Union. This is something that is becoming very broad-based and is becoming a widespread problem for small businesses struggling to survive and provide jobs for working people of this country.

I ask unanimous consent that this letter from T&B Metal Works in Jacksonville, FL, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

T&B METAL WORKS, INC.,
Jacksonville, FL, December 11, 1996.

Re H.R. 3211 ''Truth in Employment Act of 1996.''

Hon. TILLIE FOWLER,
House of Representatives, Jacksonville, FL.

DEAR REPRESENTATIVE FOWLER: Reference is made to my telephone conversation with your assistant, Susan Siegmund, on December 2, 1996, regarding the above-named bill, as well as the conduct of the National Labor Relations Board. I requested that you represent us because we seem to be in limbo between our new representative (Brown) and our old one (Stearns).

You may have copies of letters that were sent to you previously dated May 1, 1996, and October 15, 1996. To date, we have not had any luck with anyone taking a serious interest in the problems we are encountering.

I also spoke to your assistant in Washington D.C., Brad Thoburn. He requested that we put together an outline of the problems we have experienced as a result of salting and the lack of impartial decisions by the National Labor Relations Board. I have enclosed a copy of that information for your review. Mr. Thoburn also indicated that you are on the Committee for H.R. 3211.

With all that said, I will try to give you a brief idea of what our business has been going through as a result of ''salting''.

T&B Metal Works, Inc. has been in business for 10 years and is a sheet metal company which fabricates and installs duct work in commercial buildings. Presently, it is unlawful for a business to refuse to hire a job applicant because he is a union organizer or union member. Therefore, we have hired several ''organizers'' from Sheet Metal Local 435, over the past ten months (since the organizing campaign began). The problem is, these people are not trying to organize our employees—they simply do everything they can think of to disrupt our business by filing false charges, and are hiding behind the Labor Laws which were created to protect employees! (You will find details in the attached outline.)

We have had four sets of charges filed against us this year. Representative Fowler, I can assure you that if we didn't know the Labor Laws before, we certainly became familiar with them between December, 1990, and February 1993. During that period, we had ten sets of charges filed against us by the union, and we spent $28,000 on labor attorneys defending ourselves. We understand the labor laws and abide by them, but it doesn't seem to matter. Somehow, the union is able to persuade their ''organizers'' to lie repeatedly about us.

There is a statement at the bottom of the ''Charge Against Employer'' form which says ''Willful false statements on this charge can be punished by fine and imprisonment''. This is a joke! They might as well not have it on the form at all. The local NLRB representative has told me he knows these people are lying, yet the charges are not dismissed! In his defense, I know he refers his findings to the Regional Office in Tampa, and they make the final decision.

I have attached a copy of a letter we sent to Rochelle Kentov, Regional Director/NLRB, regarding her recent decision to postpone making a determination on charges that were clearly false. I have no idea why she would want to review the subsequent charges before making a decision on this issue. The charges are unrelated, as you can see in the attached.

In summary, we would like to request your support of the Truth in Employment Act of 1996 in an effort to aid small businesses, such as ours, throughout the country. Working hard and having your own business is supposed to be the American Dream, but is quickly turning into the American Nightmare for us and countless others who are being pursued by unscrupulous unions!

In addition, we feel it is imperative that the National Labor Relations Board be an impartial entity. It is a crime for them to allow this continued abuse of the Labor Laws. I hope you will have some suggestions or ideas of how this can be accomplished.

Thank you for this opportunity to express our concerns. We look forward to hearing from you.

Sincerely,

BETTY TYSON.

Mr. HUTCHINSON. Then I have before me an editorial that appeared in the Anchorage Times on December 17, 1996. You will notice that most of the correspondence and editorials that have been written have occurred within the last 2, 3 years, because it is during this time period that this problem has become so exacerbated, become so widely used by union organizers who are having little success in organizing otherwise, and they are going to these very destructive tactics.

This was written December 17, 1996, in the Anchorage Times, and I think the title of the editorial is significant: ''Do Bad Real Good.'' In this case, it was actually a city that was facing a union salting campaign, and the threats that were made by the IBEW representatives were so egregious that it received widespread attention. I will read part of that editorial:

In a meeting with Mayor Margie Johnson in November, according to City Manager Scott Janke, the IBEW representatives threatened the community with great financial harm.

The IBEW representative said:

By the time we get finished with this town, it will make the open meeting lawsuit your town was in look like chicken feed.

That cost the town over a million dollars in legal fees. So the union organizer representative said it was going to be ''chicken feed'' compared to what they were going to do.

He said:

Your town can't afford it, but we can. We will take out advertisements in the paper. We will ruin you.

* * * What we will do is rip this town apart.

Then he said:

We do bad real good.

It is that abuse, which is so often explicitly and blatantly stated, which this legislation would address.

I ask unanimous consent that this Anchorage Times editorial be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Anchorage Times, Dec. 17, 1996]

DO BAD REAL GOOD

Organized labor began the year with optimism about the national and state elections. Unions invested heavily in favorite candidates. But they didn't fair well—either in races for Congress or the Alaska Legislature.

Polls indicated the results had to do with labor's reputation in the eyes of many voters—a rap for heavy-handed dealings. It proved too much of a burden for many labor-backed candidates.

Whether deserved or not, labor's negative reputation was reinforced the other day when residents of Cordova read a memo from the city manager about an encounter between the mayor and two female officials of the International Brotherhood of Electrical Workers.

The IBEW and the city have been in a stalemate over contract negotiations that began after city employees voted two years ago in favor of being represented by the union. The union says it intends to file an unfair labor practice charge against the city because it hasn't engaged in good faith bargaining. The city says it has.

In a meeting with Mayor Margie Johnson in November, according to City Manager Scott Janke, the IBEW representatives threatened the community with great financial harm.

According to Janke's memo, this—including a reference to a non-related open meeting lawsuit that had cost Cordova $1.3 million—is what one of the union people said:

''By the time we get finished with this town it will make the open meeting lawsuit your town was in look like chicken feed. Your town can't afford it, but we can. We will take out advertisements in the paper. We will ruin you.

''If you hire a lobbyist, I am going to be right behind him or her in Juneau and (urinate) on everything that Cordova wants. You won't get one capital project.

''What we will do is rip this town apart. We do bad real good.''

The following day at a meeting between city officials and the IBEW representatives, a lawyer for the city confirmed with the two union officials that the quotes, as recorded by the mayor, were accurate. A half dozen city officials heard the confirmation, Janke says.

After the city's memo began circulating around the state about a month later, the IBEW issued a denial of the quotes, demanded an apology from the city and a retraction for what it called misrepresentation and false statements.

The city gave this official response to the IBEW last week: ''Shame on you.'' The union should be ashamed, the city said, for the threat, for the belated denial, and for the demand for an apology.

Mayor Johnson, who receives no salary, says she is disappointed. She had hoped for a partnership between the city and the union. ''They know we don't have a lot of resources in Cordova. A leaking roof at city hall, the school's falling apart, and there are only 750 property tax payers to support it all. We're struggling to stay abreast. Threats don't help anything,'' she said.

Especially on election day.

Mr. HUTCHINSON. Mr. President, while I continue to have the floor, I just want to point to this chart, which is an editorial that I think very well frames the issue that confronts the Senate today in this cloture motion.

It is entitled ''Harassing Job Providers.'' It appeared recently in the Detroit News. I think, once again, it frames this issue quite well. I will read part of it.

One form of the tactic is called ''salting'' in which union agents take a job at a nonunion firm and attempt to organize workers. They also file endless and often frivolous claims of labor law violations against the companies. Another tactic is simply to file the claims on behalf of other workers, whether or not the workers are actually aggrieved.

These tactics, as well as ''salting,'' are known as corporate campaigns and are designed to give unions more leverage when they are at a low ebb. Only 10 percent of private sector workers are in unions. One prounion handbook quoted by Investors Business Daily observes that ''Every law or regulation is a potential net in which management can be snared and entangled.

I think they rightly conclude that:

Regulations ought to be about protecting people, not ''ensnaring and entangling'' anyone. Part of the problem is addressed by legislation introduced by Republicans Harris Fawell of Illinois in the House and * * *.''

And it goes on and speaks about that legislation.

But here is the point I would make; I think the editorial made it well: Regulations, labor laws, and labor regulations implemented by the NLRB exist not to ensnare and entangle small business men and women who are trying to survive, trying to provide jobs and trying to make a living. They exist to protect both employer and employee and have always been intended to provide and to maintain balance. The fact is that when the National Labor Relations Act was passed no one could have envisioned that these kinds of tactics would become so commonplace.

So when the opponents of this legislation stand, as they surely will, and say, ''This is just an effort to undermine and to hurt organizing efforts, this is antiworker and antilabor,'' I once again remind those Senators that the only thing this legislation targets are the abuses of existing law. The only thing this legislation targets are the insidious and absolutely indefensible tactics of going in with the explicit purpose of destroying a business, destroying a businesswoman, of ruining their financial viability with a truly scorched earth policy, a term that has been used frequently of recent. This is truly scorched earth. If you can't organize and destroy them, that is what ''salting'' is all about. That is why it is incumbent upon us to restore balance and to restrain these kinds of unethical tactics that are being more and more widely used.

Mr. President, I observe the absence of a quorum, and I ask unanimous consent that the time under the quorum call be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I understand we have a time allocation and those who are opposed to the Hutchinson proposal now have, as I understand it, about 50 minutes. Am I correct?

The PRESIDING OFFICER. There are 48 minutes.

Mr. KENNEDY. OK. I will yield myself 25 minutes.

The PRESIDING OFFICER (Mr. HAGEL). The Senator is recognized.

Mr. KENNEDY. Mr. President, we are reaching the last few weeks of this session of the Congress, and I think it is appropriate to give some consideration to the positions of the Republican leadership on the many issues that affect working families, because we will consider one of these issues later in the afternoon and another tomorrow when the Senate is going to be debating and also voting on the increase in the minimum wage.

I think it is appropriate that we look over what has been the Republican leadership position on issue after issue that affects working families in this country over the period of these last few years. There you will find a wholesale assault on the interests and the rights and the economic conditions and wages of working Americans.

I can remember 3 and one-half years ago, just after the Republicans gained leadership positions in the Senate, one of the first proposals offered was the repeal of the Davis-Bacon Act. I can remember being in this Chamber and asking my colleagues what is it about the Davis-Bacon Act that they object to. Well, they talked about the inflation it adds to construction projects. The average income for a construction worker in the United States of America is just over $30,500. What is it that is so outrageous for a worker involved in construction—construction, the second most dangerous industry—to make $30,500? Why is that such a dramatic concern to the leadership of the Republican Party? We find it time in and time out—let us eliminate Davis-Bacon to make sure that we do not give government contractors the opportunity to inflate wages of workers in this country.

Nonetheless, we took a number of days on that particular issue. I was wondering why it was, with all the problems we were facing at that particular time, our Republican friends wanted to take away some very important income for working families.

And then we had introduced an increase in the minimum wage—at that time it was $4.35 an hour—for the working poor—men and women who work 40 hours a week, 52 weeks of the year, who want to be able to bring up their children with some kind of respect, but who are living in poverty. Most Americans believe that those who want to work and can work, who believe in work, who are prepared to show up for work and play by the rules, ought to be able to have a livable wage.

We will have an opportunity to address that issue again tomorrow. We have the most extraordinary prosperity in the history of the nation, with the lowest unemployment and the lowest inflation. But still the Republicans say no to that, no to the wages of working families who are involved in construction, no 2 years ago to any increase in the minimum wage, and then finally, finally, finally, finally, they acceded to a modest increase in the minimum wage. And now we have the issue before us again. We know that the purchasing power of working families has been at its lowest, has deteriorated the greatest, and the highest income Americans have seen their incomes increase.

In the immediate postwar period, all Americans went up together. The rising tide raised all the boats—low income and upper income Americans increased at about the same rate. But now, according to the Republican leadership, they want to see a decline in the wages of working families by repealing Davis-Bacon. They don't want to see any increase for working families in a minimum wage.

And then I remember, as we went on into last session, the assault on the earned-income tax credit. Increasing the minimum wage helps working people, whatever the size of their family. But the earned income tax credit helps low wage workers if they have one or more children. The more children you have, the greater the benefit to you from the earned-income tax credit.

But we had the Republican leadership not only condemning the income of construction workers under the Davis-Bacon Act, but saying no to any increase in the minimum wage. And for those Americans with large families who earn less than $31,000, we saw the wholesale Republican assault on those families by cutting the earned-income tax credit. I believe their particular proposal was $9 billion.

Now, we went on for 6 or 8 months, and I asked, what is this all about?

Why are we having this wholesale assault on working families at the same time we saw the assault on Medicare and Social Security, to take over $256 billion and give tax breaks to the wealthiest individuals.

Well, Mr. President, this assault that we had from the Republican leadership in the last session of Congress has continued, and it continues today. We have seen serious efforts to undermine the occupational health and safety legislation. Who does that protect? Legislation that had bipartisan support in 1972 that has seen the total number of deaths in the United States from on-the-job work cut in half. But we see our Republican friends saying we want to cut back on OSHA protections.

We say, all right, maybe it ought to be streamlined; maybe it ought to be more effective. What can we do to provide additional protection for workers? The GOP says, oh, no, we want more protection for the companies, and less protection for the workers. The Republicans want to permit companies to hire their own inspectors, and if their own inspectors say they pass muster, they want them to be immune from any kind of enforcement by OSHA. The Republican agenda includes undermining their income, undermining the safety of working families—this is their agenda.

We say maybe it really is not so. Let's give the Republicans an opportunity to prove that they really do care about working families. Let's try to see what we can do with family and medical leave. We are the only industrial nation that does not provide paid family and medical leave that pays the workers. We provided it for companies with over 50 employees, and it has been a resounding success. It has been a resounding success, and enormously important, as we have seen from the studies that show the importance of parents being with infants during their early days.

We heard the debate. It went on for weeks with the opposition of Republicans on the Family and Medical Leave Act. Now it is in effect. It is broadly accepted, welcomed, and the people who benefited from it have been working families.

Efforts were brought up not long ago, a little over a year ago: Let's try to extend it from companies that have 50 or more workers to those with over 25 and pick up another 13 million working families. We cover about half of the workforce now with the 50 or more, but let's bring it down so we pick up another 13 million Americans. If it works for one, let's try it for the other.

You would think the world would collapse when we listened to the Republican leadership saying ''no way are we going to consider extension of the Family and Medical Leave. No way are we going to extend that concept.''

We hear a great deal on the floor of the U.S. Senate about families and family values. One of the best ways of advancing family values is to let working people have family income. Let them spend some time with their families when they are working. Let them be safe so they can go home to their families, and not lose their lives in construction or be maimed in construction. That is a family value.

Now we had the wonderful amendment of Senator MURRAY of the State of Washington. She said, ''Let's just give parents 24 hours—24 hours so that parent might be able to go to a parent meeting, maybe be able to go to an academic program in which a child is involved. Let us give 24 hours a year of unpaid leave so parents can see their child receive an award at school.''

''No, no, no,'' said our Republican friends, ''we can't possibly do that. We can't possibly do that. That will interrupt the workplace. That will disrupt the workforce. We will give you something else.''

They came back with a wonderful proposal—what they call ''comp time.'' ''No,'' to Senator MURRAY, the Senator from Washington, who was trying to do something for families. They come back with what they call comp time. They use all the appealing rhetoric. They claim they will give people the time they need to take off to attend to family needs. But, you know, Mr. President, we went through that debate. One thing that those proponents would never be able to answer is that little part of the legislation that I read time in and time out that said it will be up to the employer when they will be able to get the comp time. In the meantime, we are going to abolish the 40-hour week and we are not going to pay overtime. A wonderful deal for workers. A wonderful deal for workers.

Who do you think supported that? It is always interesting to me when we have these wonderful statements of people who propose things, to then look at who benefits and who loses. Who do you think supported the Republican proposal on comp time? The Chamber of Commerce, all the business interests. Who opposed it? Working families, women's organizations and children's groups, because they saw it was phony and they saw it was fraudulent.

So on it goes. Here we have the assault on the economic interests of working families, the assault on OSHA, the assault on our efforts to extend Family and Medical Leave, and many more.

Another example is campaign finance reform. We talked about it. It has been effectively defeated in the U.S. Senate because of Republican leadership. Eight courageous Republicans, eight of them, were willing to stand up and try to advance campaign finance reform.

The first amendment that our Republican friends offered, before they sunk campaign finance reform, was what they call the paycheck protection provision. That sounds like a good one. On whom do you think it was focused? On whom do you think that paycheck protection was focused? Can you guess? Working families. Working families, to deny them the opportunity to participate effectively in our political process. That is just a continuation of the assault on working families. It is meant to deny them the most fundamental and basic opportunity—to participate in the election process.

The No. 1 amendment was to deny people their rights. Our agenda was different. Our agenda seeks to expand safety and health protection in the workplace. We want to expand family and medical leave, invest in education, strengthen Medicare for our elderly, try to do something for Social Security—that is our agenda. I know it.

I yield to no one in sponsoring those proposals because they make an important difference to children, to workers and to our parents. I also support other proposals to make sure our streets are safe and our air water is clean. But we spent weeks on their so-called Paycheck Protection Act, not to change the system to try to deal with the abuses—but to deny working families the right to participate in the political process.

It was not much later that the GOP brought up the TEAM Act. That bill goes under the guise of giving workers a chance to work together in order to get a safer workplace and better productivity. All of those goals can be advanced now, under current law. I do not think any of those who supported the TEAM Act can compare the kind of increased productivity we have seen with General Electric, for example, in modernizing their jet engines, that has been done with workers and engineers working together.

I can take you up to the plant in Lynn, Massachusetts. Every time I tour that plant, I see the incredible increase in productivity, because workers are working there alongside engineers to increase productivity and increase safety. But the TEAM Act does something else. What was that? That bill would have permitted any CEO to choose employees' representatives, so that the CEO could bargain with the named employees about any of the issues about which other workers might be concerned.

How do we like that? Generally speaking, we would think that the workers themselves ought to be able to make a decision among themselves who ought to represent the group. That is a basic, fundamentally democratic concept. But no, no, not according to the Republican leadership.

Under the TEAM Act, the employee names the representatives, and if the employer doesn't like the person, he can fire the person. The employer sets the agenda and the schedule. The employer sets what will be on the schedule. The employer can change the schedule any time he or she wants to do it. Mr. President, that is under the guise of trying to change and be more productive. It basically would have undermined the opportunity for worker expression that has worked effectively

over some 60 years of collective bargaining.

So, Mr. President, now we are in the final days of this session, and suddenly we come up here with other legislation which is focused on undermining the opportunity for workers to organize. Surprise, surprise, surprise. Absolutely no surprise. Absolutely no surprise.

There has been a continuous effort over the last several years to undermine working families' interests in this country. It is as plain and simple as that. The Republicans have tried all different ways of doing it. They tried to undermine them economically. They tried to undermine their health and their safety in their OSHA recommendations. They tried to undermine their ability to participate in elections with their paycheck protection, and here they are trying to undermine their basic and fundamental opportunity to organize.

They have come in the last few days to try to overturn a unanimous Supreme Court decision—unanimous. It wasn't a decision that was 5–4, it was unanimous. Why? Because Republican appointees to the Supreme Court—conservative Republican appointees to the Supreme Court—understand very clearly what this kind of antisalting legislation will mean, and that is, basically, it will undermine one of the most basic and fundamental tenets of American and industrial democracy, and that is the ability to have collective bargaining and to have opportunities for workers to make a judgment either to choose a union or to reject it. That is where we are. We will have that particular vote this evening, and then we will go to the minimum wage issue tomorrow. We will have an opportunity to do that, Mr. President.

I won't even bother taking the time, because I want to address more specifically the legislation that is before us, but I just mention that under the Republican House leadership, they effectively eliminated every summer job for kids in this country—zeroed out the summer jobs program. Zero funding. It isn't just the workers, it is the teenagers in urban and rural areas.

I hope we will not hear tomorrow during the debate on the minimum wage, ''Well, this is an entry-level job; we want to give teenagers an opportunity to work, and if we have an increase in the minimum wage, we are going to deny all those teenagers an opportunity to work.'' It won't stand up. We will give them the reports, show them the charts and the various economic analyses that show their argument is just baloney.

How are they going to explain that they zeroed out every single cent for summer jobs for teenagers in the House of Representatives? Zero. They say they care about workers? They claim they care about teenagers? The summer jobs program gives them an opportunity to have meaningful work, and they zeroed it out.

Mr. President, this was just a very brief comment about where we find ourselves, about who is really interested in working families, and what the Republican leadership has been about over the past three and a half years.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 25 minutes 22 seconds remaining.

Mr. KENNEDY. I yield myself 15 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I oppose the so-called Truth in Employment Act, and I urge my colleagues to oppose it, too. This bill is the latest in a long series of Republican antilabor, antiunion, antiworker initiatives. They have soothing titles and harsh provisions. The GOP's Family Friendly Workplace Act would abolish the 40-hour week. The GOP's Paycheck Protection Act would lock American workers out of election campaigns. The GOP TEAM Act would bring back company-dominated sham unions. Like those schemes, the GOP Truth in Employment Act has an appealing title and appalling substance.

The bill's sponsors claim that it is designed to outlaw salting, a decades-old practice of people seeking a job at a nonunion shop with the intention of persuading coworkers to join the union.

Salting was unanimously upheld by the Supreme Court in the 1995 Town & Country decision. But this bill does much more than simply reverse that decision. It undermines the rights of workers to organize to improve their jobs and also infringes on a wide array of other legitimate activities that are important to all Americans. These activities include efforts to improve the status of women and minorities in employment, strengthen safety in the workplace, and many, many more.

The bill aims at labor unions, but it also hits many other important rights. This bill allows employers to deny jobs to people if they have ''the primary purpose of furthering another employment or agency status.'' Those are the words from the legislation.

The bill invites employers to pry into their employees' activities outside the workplace to discover the workers' ''primary purpose.'' It encourages firms to ask job applicants whether they are union members or civil rights activists and refuse to hire them if they answer yes. This blunderbuss provision institutionalizes the blacklist.

The bill is blatantly antiunion, and its supporters include the National Right to Work Committee and many antiunion employer associations. But the bill goes well beyond discrimination against union members. It permits many other kinds of flagrant discrimination.

By permitting employers to deny jobs to workers who have ''the primary purpose of furthering another employment or agency status,'' the bill also allows firms to fire or refuse to hire a person who seeks to advance the goals of another employer.

A company can fire a worker who is also employed by a labor union.

The bill also lets an employer refuse to hire someone based on the fear that she might band together with coworkers to push for an on-the-job child care center. The employer can argue the applicant was trying to advance the goal of women's groups to which she belonged.

The bill also allows a firm to fire African-American employees who seek to reduce race discrimination in the workplace.

The bill lets an employer fire workers who seek to change company policy and allow time off for religious holidays, for family and medical leave, or other worthwhile purposes.

This legislation legitimizes discrimination of the most offensive type. It encourages companies not to hire women. It invites discrimination against anyone else the employer believes might push an agenda in the workplace the employer doesn't like.

It encourages employers to probe into employees' private beliefs and activities. Freedom of expression and association are guaranteed in the first amendment. For over 200 years, this country has protected individual liberties. Those freedoms are essential to our national character, but this bill clearly undermines their beliefs.

The bill's supporters claim they want only to outlaw deceptive practices. They contend that employers are victimized by paid union organizers who accept a job with no intention of performing the work. Instead, they claim, these employees disrupt the job, harass coworkers, and file repeated frivolous complaints with governmental agencies. Innocent employers are forced to waste time and effort defending themselves against baseless charges.

Section 3 of the bill says its purpose is ''to alleviate pressure on employers to hire individuals who seek or gain employment in order to disrupt the workplace of the employer or otherwise inflict economic harm designed to put the employer out of business.''

Employers are not powerless under current law in the face of abusive practices. To the contrary—employers have many ways to ensure an efficient and productive workplace.

First and foremost, a business can refuse to hire someone who is not qualified for the job. If an applicant lacks the experience or the skills required, the employer can simply say no. Union membership does not automatically entitle someone to be hired, nor is it discrimination not to hire a union organizer who cannot perform the duties of the job. The employer has substantial control.

The company can also protect its legitimate business interests by setting a policy barring workers from outside employment.

The firm can require employees to forego moonlighting of all kinds, from

driving a taxi, to telemarketing from home, to working weekends at the corner store.

The Sixth Circuit Court of Appeals ruled last year that such a policy can be applied against paid union organizers so long as it is applied neutrally to all other types of employment.

This is a sensible rule. It recognizes employers' legitimate interests in workers who are focused on the job. We understand that, Mr. President. If the company says, ''No, no moonlighting. The workers in our particular shop can only work on one job. We want that for business reasons, because we might need to have the workers work a second shift or a third shift and, therefore, we don't want you working in some other capacity.'' They can do that and accomplish the result they claim is their intent.

That is the Sixth Circuit's decision in the Architectural Glass decision in 1997. It says that they can effectively ban all kinds of moonlighting if they have a company-wide policy. So people cannot participate in other kinds of employment. If they are so concerned about that, they can do that. They can do that now. That is a way for them to try and deal with this issue if they are concerned about it.

Employers can also discipline or discharge employees who neglect their job duties. Workers who leave their stations or simply do not complete the work required of them can be disciplined. In April 1997, the Fourth Circuit Court of Appeals upheld an employer's right to discharge workers who failed to carry out their duties. In the Hess Mechanical case, the workers neglected their duties and tried to persuade their coworkers to join the union. The court held that the employer was well within his right to fire the workers for poor performance.

We understand that, Mr. President. If they hire someone who isn't interested in working, will not work, or can't do the work they can fire the workers who neglect their job duties. If they are not going to do the work for which they were hired, and if they are not qualified for the job, they don't need to be hired. If they are qualified for the job, they are hired, they work. If they do not work, and they are busy in other activities, they can be fired. That is the law of the land today—today.

Union membership does not give workers the right not to perform the job. A company can suspend workers who fail to perform adequately. Their pay can be docked. Disciplinary letters can be placed in their files. In extreme cases, they can be fired. Employers can use all of these items, and more, to get the job done. They are far from powerless to address the types of abuses cited by the bill's supporters.

Employers are also free to discipline workers who disrupt the job. Harassing coworkers or customers or blocking entrances, intruding in other work areas, all of these acts can constitute grounds for discipline. Once again, employers have many ways to maintain quality, efficiency, and productivity without undermining the employee's legitimate rights.

If the misconduct is extreme, employers can call the police. Violence, threats, and intimidation are criminal offenses. Damaging or destroying company property is a crime. No employer needs to sit idly by if employees commit such gross misconduct. Criminal charges can be filed. The offender can be removed from the worksite. These sanctions are in addition to all the other disciplinary mechanisms available to the employer. Once again, union membership confers no immunity.

This bill's supporters contend that union members inherently suffer from ''divided loyalties.'' They claim that union members simply cannot be truly loyal to the employer, cannot give the employer the genuine allegiance required for an effective and productive workplace. But that extreme antiworker, antiunion view was rejected over 60 years ago when Congress passed the National Labor Relations Act. The so-called divided loyalty antiunion claim is phony. It was used by countless harsh employers to deny the fundamental rights of workers. And Congress put a stop to it in the 1930s.

Mr. President, I ask unanimous consent to have printed in the RECORD various letters that I have from a number of companies.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CENTRAL SIERRA ELECTRIC CO., INC.,
Jackson, CA, November 21, 1995.

Mr. JIM DEWILMS,
Local #684 IBEW.

DEAR JIM: In response to our conversation last week, here is my opinion concerning the benefits and drawbacks to being a union shop. As you know, Central Sierra Electric Co., Inc. has been in business for fourteen years and has been signatory with IBEW for the past two years. Listed below are what I consider to be among the Union's strengths. To date we have found no drawbacks.

Extremely helpful in getting qualified manpower.

Notified us of numerous jobs out to bid.

Given our name to developers & manufacturers looking for qualified contractors.

Assistance in getting jobs when competing against non-union shops.

I hope this is of assistance to you. Please feel free to give me a call.

Sincerely,

CLIFF FRANKLIN,
Vice President.

TL ELECTRIC, INC.,
Mountain View, CA, November 17, 1995.

Subcommittee Chairman, PETER HOEKSTRA,
U.S. Congress.

TO THE HONORABLE MR. HOEKSTRA: My name is Tim Long the owner of TL Electric License #701016. I was formerly a non-union firm who was just recently organized by the use of union salts from a couple of IBEW locals here in Northern California. After these employees made it known to me that they were affiliated with the union, it became apparent to me that the skill and ability that they had, along with their understanding of their rights as employees could only help me became a better contractor. At no time did they try to put my company in a bad light with my clients nor did they try to encourage my employees to become destructive to my equipment or to stop performing any assigned tasks. What they did do, was to show me they were productive, loyal employees that only wanted my company to succeed and for my employees to enjoy a better way of life by educating them as to what their rights were under the National Labor Relations Act.

Once I started to deal with the union salts and talk to them and to my employees I felt that becoming union would be something that I could look into. In all my dealings with the local union I was never threatened with any type of action. I was offered help in every area that I asked for and had my questions answered honestly. Since becoming a union contractor I have used the local union hiring halls and I am very pleased with all of the union members who have staffed my jobs. They have proven to me that they can be loyal as employees and to their union and that they are educated men and women who care about their rights and want to ensure that these rights are not denied to them. These union salts are out there trying to educate every man and woman that they have rights. They are not out there trying to put honest contractors out of business. I know that with the IBEW my company will be profitable and my employees educated to their rights.

Respectfully,

TIM J. LONG,
President.

ALONSO ELECTRIC,
Burlingame, CA, November 28, 1995.

TO WHOM IT MAY CONCERN: I am an Electrical Contractor and have been licensed since 1995. I joined the IBEW, Electrician Union in 1993. As an IBEW contractor I have been able to call the union hall when I need qualified electricians to work for me, and when the job is complete I can send them back to the union hall and do not have to worry about keeping a good man even when I have no work for him. So as a contractor the IBEW has solved my labor problems.

Personally I am receiving training in electrical theory and code requirements. I now have a good health and dental insurance plan, and am participating in a pension plan, which I never had before.

Sincerely,

FRANK ALONSO.

[From the Labor Times, Kansas City, KS, Dec. 1995]

IBEW 124 TIES GOOD BUSINESS, CONTRACTOR SAYS

(By Tom Bogdon)

One of the active boosters of recruiting reforms within International Brotherhood of Electrical Workers Local 124 has been Carl McKarnin, general manager of the power plant division of Pioneer Electric Co. That is not too surprising considering McKarnin's own experience as a young electrician fresh out of the Navy and seeking a career in electrical work.

''I talked to the girl working in the front office (of the union),'' McKarnin said in a recent interview. ''She said she was sorry that no one got any farther without a sponsor. It was a closed-door union. I didn't know anyone at the time to sponsor me. I had no choice but to seek out other unions or go to a non-union shop.

''And it wasn't just the IBEW,'' McKarnin continued. ''All the skilled trades were like that. If you didn't have a relative or friend in the union for a sponsor, you didn't get in.''

Local 124 shunned McKarnin back in 1964, but the exclusionary policies in effect then

did not slow McKarnin very much. He went on to build one of the largest and most successful electrical contracting firms in the metropolitan area. And five years ago McKarnin signed an agreement affiliating his firm with Local 124.

Now McKarnin assists actively in the aggressive efforts led by Local 124 Business Manager Lindell Lee to organize the unorganized sectors of the Kansas City electrical industry. McKarnin is fighting alongside Lee and other Local 124 members to eliminate vestiges of the ''Country Club'' atmosphere that for 30 years contributed to a steep decline, both locally and nationally, in the market share of electricians represented by the IBEW.

Also like Lee, McKarnin does not dismiss the competitive threat to growth of the unionized sector of the electrical industry posed by such non-union contractors as South Kansas City Electric (SKCE). * * *

''Unions have got a hard fight on their hands,'' McKarnin said. ''There are several very good non-union companies out there that have good employees working for them. People like Lindell Lee recognize that and are moving aggressively to do something about it.

''An example of that is the employees working for us (Pioneer) who came out of SKCE,'' McKarnin continued. ''We've taken in five of them, I believe that's correct. One of them, Tony Galate, has been with us four years and is a general foreman. He's running the new Federal Courthouse project Downtown for us now. That's the largest single contract the company has now or has ever had.''

McKarnin was born 52 years ago in Liberty and grew up in the village of Randolph in Clay County. He attended North Kansas City High School, but dropped out when he got a job in a greenhouse, later working for National Bellas Hess and Pioneer Bag Co. He joined the Navy in 1960 for a four-year hitch, and was stationed on the aircraft carrier Lexington.

McKarnin trained ashore as an electrician while the Lexington was docked in San Diego. He described his 14-week Navy training course in electrical work as ''excellent.'' * * *

Upon returning to Kansas City and, being unable to join IBEW Local 124. McKarnin went to a North Kansas City bank to open an account. McKarnin said the bank president asked him what he did for a living, and that he replied he was unemployed and looking for a job as an electrician. The banker recommended that McKarnin talk to Gabe Brull at Clayco Electric.

McKarnin was hired at Clayco, whose employees were represented by District 5 of the United Mine Workers, serving a four-year apprenticeship with that organization, which later merged with the United Steelworkers of America. McKarnin, who obtained a GED certificate in the Navy, also studied electronics for two years at the Central Technical Institute and electrical engineering for two years at the Finley Engineering College.

In 1969, McKarnin worked nine months at Evans Electric with a temporary IBEW Local 124 ticket, helping to build a runway at Kansas City International Airport and the nearby Trans World Airlines office building. He also served six years as president of the 200-member Steelworker Local 14436 which at that time represented electricians.

''It's interesting,'' McKarnin observed. ''I've worked so closely with IBEW 124, but I was never a card-holding member.''

In 1984, McKarnin and his wife Patrick bought Pioneer Electric, which had been founded in 1977. In 1994, Pioneer was sold to Duane Russell, and McKarnin signed a five-year contract to remain with the company as general manager for the power plant division.

In addition to other types of work, Pioneer services four Kansas City Power Light Co. power plants, the Board of Public Utilities' Quindaro plant, the Thomas H. Power Plant north of Columbia, Mo., and other plants in Denver, Sioux City, Iowa, among others.

McKarnin said Pioneer currently employs about 160 electricians, including about 90 IBEW 124 members and others from Local 226 in Topeka. McKarnin said Pioneer's employment peaked at about 300 last year, including office and craft personnel.

''I have worked very closely with IBEW 124 since our employees voted to be represented by the IBEW about five years ago,'' McKarmin said. ''Middle class America was created by the unions. Non-union wage standards are set by the unions. Most people don't realize that. Most people think the employer will automatically take care of the employees.

''But if you travel outside this country to anywhere there is no union representation, you have two classes of people—the extremely rich and the extremely poor.'' McKarnin continued. ''The middle class of any country is created by the unions. And non-union wages are set by the unions. Usually the non-union shops pay just a little bit less. But they don't pay any more than they have to.

''It also should be noted that the middle class—created by unions—pays most of the taxes that have set the high standard of life in this country that is envied by most of the world.'' McKarnin said.

''Other reasons I support the union is because of the federal laws they have fought for,'' McKarnin said. ''Look at your air pollution and water pollution laws, at OSHA safety programs. These and other protections were lobbied for and fought for in Washington, D.C. by unions. That's a fact.

''Federal labor laws are like stop lights and speed limits,'' McKarnin said. ''Somebody has to set the standard. There are people out there who will kill other people. Maybe they have no respect for human life and human rights.''

McKarnin, who has assisted in Local 124's organizing efforts at the employer level and also by speaking to prospective union members, was asked if this is because he is an enlightened boss or simply because it is good business.

''It's just something I believe in,'' McKarnin replied. ''I believe very strongly in union representation and that would be my attitude whether or not I owned a company. I buy American-made clothes when I can. Most of my clothes have a union label.

''Unfortunately some union members don't do the same thing, or you wouldn't have the unfair competition from foreign products. A good example is a union member who drives to work in a foreign vehicle. As owner of the company I have discouraged that and still do. It's not good business.''

McKarnin said he has been involved with Lindell Lee and Local 124 organizers Chris Heegn and JIm Beem in the effort to organize SKCE.

''One employer asked me why doesn't the owner of SKCE want to go union,'' McKarnin said. ''Simply stated, the reason SKCE employees should vote to go union are all the reasons why the employer does not go union.

''The employer does not want to pay a competitive wage and benefit package,'' McKarnin said. ''And another thing is young people want the cash money in their pocket right away. Retirement is a lifetime away for them. They don't care about costly benefits such as health insurance, life insurance and retirement planning.

''People interested in joining the union have been with the company 10 or 15 years,'' McKarnin continued. ''They've started thinking about the future and realize why they would benefit from joining the union.''

McKarnin said that while employees benefit for union membership, so does the company.

''In the case of Pioneer Electric, the company believes we benefit from union representation,'' McKarnin said. ''When we went IBEW, we had 25 employees. As I said, we peaked out last year at 300. So we have seen some benefits from IBEW affiliation in the availability of skilled manpower. We can't survive without the union, and the union can't survive without the company. That's the bottom line.''

WILSON ELECTRIC,
Oakland, CA.

Hon. PETER HOEKSTRA,
U.S. Congress.

TO THE HONORABLE PETER HOEKSTRA: I am the owner of Wilson Electric Lic. #462959 a minority firm located in Oakland, Ca. I was a non-union firm until Oct of 1994. Until that time I had many projects that I manned through the use of temporary hiring halls, word of mouth and advertisement in local papers. I hired an employee who came to work on a fire station that I was doing for the city of Oakland. I was impressed with his skill and the way that he got right in and helped me to get this job back on track. He then informed me that he was an I.B.E.W. union member, a salt and wanted to organize my shop into the local union. I guess you can imagine my surprise to this revelation. He told me that he wanted all my employees to know that they had the right talk about the union, that they had the right talk about other conditions that might be of concern to them, and that he was still a good employee himself and would still be loyal and productive. Not only did this employee remain a valuable asset to my company through his display of skill and knowledge and leadership, he treated my employees with respect and dignity, something that I had been told that the unions wouldn't do.

Through this union salt, the local I.B.E.W. union has shown me that their membership is committed to excellence on the job, continued education to improve their skills, to working with all of their contractors, to protecting the rights of all people working in the construction industry, to try and educate the public about all of the positive things that unions bring to their communities and that they can be loyal to their contractors and their union.

I am very pleased to say that I'm a union contractor. I believe that the union salting program is not only a good way to reach out to other working people, but that this right should be protected under the National Labor Relations Act.

Respectfully,

ROBERT WILSON.

COAST ELECTRIC,
Morgan Hill, CA, November 30, 1995.

To Whom It May Concern:

In mid 1992 My company was ''salted'' by a member of the IBEW, a Mr. Pat Mangano, for the purposes of organizing. The work completed was of top quality and we in fact have maintained a friendship. Fortunately I had given thought to the idea of becoming a signatory contractor prior to this event due to the inability of my company to hire qualified people at any wage level. The salting activity convinced me that the decision to become signatory was in fact the right one.

The contracting business is a complicated one even in the best of times and to be relieved of any problems is of great benefit. Having a reliable and qualified workforce at ones finger tips goes a long way to relieve

some of the problems in a most stressful business. Thank God I am a union Contractor.

Respectfully submitted,

WILLIAM D. LARLEE.

Mr. KENNEDY. Here are individual companies that had been salted. This is their reaction to it.

This letter comes from Coast Electric Company in Morgan Hill, California. It says:

My company was ''salted'' by a member of the IBEW, a Mr. Pat Mangano, for the purposes of organizing. The work completed was of top quality and we in fact have maintained a friendship. Fortunately I had given thought to the idea of becoming a signatory contractor prior to this event due to the inability of my company to hire qualified people at any wage level. The salting activity convinced me that the decision to become signatory was in fact the right one.

The contracting business is a complicated one even in the best of times and to be relieved of any problems is of great benefit. Having a reliable and qualified workforce at one s finger tips goes a long way to relieve some of the problems in a most stressful business. Thank God I am a union Contractor.

From Central Sierra Electric Co., Inc.:

Here is my opinion concerning the benefits and drawbacks to being a union shop. As you know, Central Sierra Electric Co, Inc. has been in business for fourteen years and has been signatory with IBEW for the past two years. Listed below are what I consider to be among the Union's strengths. To date we have found no drawbacks.

Extremely helpful in getting qualified manpower.

Notified us of numerous jobs out to bid.

Given our name to developers and manufacturers looking for qualified contractors.

Assistance in getting jobs when competing against non-union shops.

From TL Electric, Inc., 2296 Mora Drive, Mountain View, CA:

I was formerly a non-union firm who was just recently organized by the use of union salts from a couple of I.B.E.W. locals here in Northern Carolina. After these employees made it known to me that they were affiliated with the union, it became apparent to me that the skill and ability that they had, along with their understanding of their rights as employees could only help me become a better contractor.

You see the fact is, Mr. President, when unions do use the salting technique, they send their best people into these companies. Opponents claim that they do not, and that they send people in there who are disruptive and harassing in order to break up the shops. In fact, they send their better people in to be an example in order to convince people to become union members. If they cannot win the respect of their co-workers, they will not be able to convince them to join the union.

I will go on with some of these others when I conclude this evening.

The principle of basic fairness was reaffirmed in the Town & Country case in 1992, decided by a National Labor Relations Board composed of members appointed by President Reagan and President Bush.

In that case, the NLRB emphatically rejected the employer's claim that paid union organizers are not ''employees'' under the labor laws, and that they are incapable of possessing the requisite loyalty to the employer. Instead, the Board ruled, ''the statute is founded on the belief that an employee may legitimately give allegiance to both a union and an employer. To the extent that may appear to give rise to a conflict, it is a conflict that was resolved by Congress long since in favor of the right of employees to organize.''

The Supreme Court unanimously affirmed the NLRB's decision. The Court described the issue before as follows: ''Can a worker be a company's 'employee,' within the terms of the National Labor Relations Act . . . if, at the same time, a union pays that worker to help organize the company?''

In answer to that question, the Court held: ''We agree with the National Labor Relations Board that the answer is 'yes.' ''

The Court noted that the law protects employees' right to engage in union activities during nonworking time in nonworking areas. We understand that, Mr. President. They are only entitled to try to encourage people to involve themselves in union activities in nonworking time in nonworking areas. Otherwise, they can be disciplined. So we are talking about nonworking time in nonworking areas. That is key, Mr. President.

The decision explained that ''this is true even if a company perceives these protected activities as disloyal. After all, the employer has no legal right to require that, as a part of his or her service to the company, a worker refrain from engaging in protected activity.''

Mr. President, the bill before the Senate destroys this protection. It lets employers force workers to renounce their right to engage in legitimate, lawful activities. Businesses can discharge employees who attempt to organize their coworkers to join a union, or protest dangerous working conditions, unfair pay practices, or race or sex discrimination.

This legislation takes a giant step backward. It legitimizes conduct that our society has long condemned. It is hard to believe the Republican leadership is giving this misguided, antiworker bill such high priority as we near the end of this Congress.

Many of us have been trying to get consideration of the Patient's Bill of Rights so we can debate that issue before we recess. And, no, the Republican leadership says, no to patient protections that are of central concern to more than 160 million Americans who are in various health maintenance organizations and managed care plans. But what do we have on the floor of the U.S. Senate? The salting legislation. We could ask how many Members of this body on either side have read through this legislation and understood it. It was scheduled at the close of business last Thursday for a cloture vote this evening.

We could have debated patients' protection Friday, or if necessary, Saturday, or all day today. I bet you would have two-thirds of the Members of the U.S. Senate here instead of two Members. If we were dealing with the people's business, two-thirds of the Members would be here because they know the concern that families have about the abuses that are taking place. In too many instances in our Nation, it is insurance company accountants and agents making decisions on health care that ought to be made by doctors. Why aren't we debating that instead of an antiworker piece of legislation?

The silence from the Republican leadership is amazing. ''Oh, no,'' they say, ''you can only have three amendments. You either have to have your bill or our bill or two other possible amendments because we don't want to take up the time.'' Here it is, two Members of the Senate are on the floor, and we are moving off this bill to consider the Interior Appropriations bill later in the afternoon, and they will be hard-pressed to get another couple of Senators on various amendments on that.

How much time remains?

The PRESIDING OFFICER. The Senator has 7 minutes 45 seconds.

Mr. KENNEDY. I reserve the balance of my time.

Mr. HUTCHINSON. How much time does my side have?

The PRESIDING OFFICER. The Senator from Arkansas has 11 minutes 56 seconds.

Mr. HUTCHINSON. Mr. President, after listening to Senator KENNEDY, I feel I should start by checking to see if I have horns that ought to be removed. I wasn't sure, frankly, whether we were debating minimum wage, family and medical leave, Davis-Bacon, comp time, OSHA, campaign finance team or summer jobs program.

I know that while there is concern about the amount of time we are spending on what Senator KENNEDY feels is an inappropriate bill, the total amount of time designated and agreed upon is 2½ hours equally divided on this cloture motion. I think to the thousands of small businesses across this country, their owners and their families, this is certainly worth 2½ hours on the floor of the U.S. Senate. I know that many businesses in the State of Massachusetts are certainly worth the time we are devoting to the subject today.

While Senator KENNEDY may be concerned that people have not read the bill, it is 3½ pages long. I suspect that any Senator, between now and this evening, will have time not only to study it and to study its impact, but also perhaps to read some of the hundreds and hundreds of letters that every Senator in this body has received on this subject.

For the sake of those who may not have time to read what I think is very important in this bill, I want to read it for the sake of my colleagues and the

sake of the manager of the other side, because while part of the bill was quoted, a big part of the bill was not cited. It is this:

Provided, That this sentence shall not affect the rights and responsibilities under this Act of any employee who is or was a bona fide employee applicant, including the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protections.

That is language directly from the National Labor Relations Act. We say there is nothing in this bill that can possibly infringe upon the right of a worker to do what they have always done. Salting has not been an accepted practice. Disrupting the workplace, causing economic damage, seeking to destroy one's employer, has never been an accepted organizing strategy in this country, nor should it be. That is all this legislation would restrict.

I suggest that when we talk about families, that we realize that small business men and women in this country have families, too. That they are workers, too. To invest a lifetime building a small business, building jobs and an economic future for their employees, to have that destroyed by this insidious practice is indefensible. I am amazed that anybody would stand and defend the practice of salting.

Now, we heard a couple of examples, I think, that mischaracterize what salting is. They say it is organizing. There is nothing in this bill that would prevent organizing. In fact, it specifically says that. So, please, let's not have red herrings thrown in. A small contractor in the Boston, MA, area has experienced numerous cases of union salts coming into the company under the presumption that at the open-shop company they would have low wages and no benefits. That is what they were told.

Every union salt came to realize that not only had the working conditions at the open shop been mischaracterized, but they were subjecting the company to an immoral and unscrupulous practice designed to harm the company. These employees and their families were later threatened by union members. Some compelling letters were received from employees to their union representatives saying they will quit the union and expressing disgust with the unscrupulous tactics they were put up to.

Let me read from one, and I will not use the names because I think that would be unfair. This letter is very moving. She mentioned the name of the company:

. . . doesn't deserve the disgrace and shame local 12 wants me to bring upon them. Every one at [the company] has worked too hard to have this done by me. I can't do it. I have been raised different. How can I raise my kids by setting an example like this.

I have decided to sever my time with local 12 [in Boston, MA.] After 2 years, I'm finally there. If this is how I have to get it, I don't want it.

And then she mentioned her employer's name.

Please do not contact me by phone, mail or in person.

I would like to remain an employee of [this company] but I understand and deserve termination. . . . Do as you see fit.

I would strongly recommend to anyone involved in local 12's program, [that is referring to the salting program] to get out.

I don't know how I could face you and do what they want me to do. I'm sorry I've betrayed you. I would like to apologize.

There are many salts we heard from, former salts who said, ''I got out. It was too dirty. It was too much of an unscrupulous business to be part of it. I got out.''

That is what we want to ban—not legitimate organizing, but this destructive tactic to go only to destroy the company. In their own words, from the State of Massachusetts, the organizing report of the International Brotherhood of Painters and Allied Trades, Roslindale, MA, this is what they wrote:

This is the opportunity to strip these nonunion contractors of their most skilled workers and put the nonunion contractor in a situation where they won't be able to fulfill their contract obligations.

That is not me. It is their own words. Not their best workers, but to strip them of skilled workers.

They say:

We are stripping quality workers from these shops, weakening their ability to man their jobs. Our intent with this company and companies like them is to put them out of business or have them sign on the bottom line and become a union shop. Our efforts at this major nonunion shop have resulted in a victory from the council. We stripped away the best of their workers so far. They stopped advertising for help, and in fact, they put a freeze on all hiring. This has impeded [the Company's] day-to-day running daily. They need workers at this busy time of year, but they cannot hire. The word from our sources in the company is they will use a temp agency to hire workers. This will result in their having difficulty getting quality, long-term workers and will drag down their standard of worker. We know [the Company] has already been kicked off from one job for not getting it done on time. The less work this painting contractor does, the more there is for our signatory contractors to take on, and the stronger we get.

That is in their own words.

You can either accept salting is legitimate, salting is just an organizing tactic, or you could listen to their own manual and to their own reports that their goal is to destroy small businesses. And that's wrong.

It isn't impinging upon the rights of workers to organize, to collectively bargain. It is saying there is a right way to do it and there is a wrong way. This was never envisioned when the National Labor Relations Act was passed and it should be prohibited.

In 1996, there were over 17,000 complaints to the NLRB. This isn't a rare, isolated thing. There are thousands of frivolous complaints. The cost when they are investigating, $17,500 of taxpayers' money just to investigate these frivolous charges. That is what we are dealing with.

May I inquire as to how much time remains?

The PRESIDING OFFICER. The Senator has 4 minutes 7 seconds remaining.

Mr. HUTCHINSON. I reserve the balance of my time.

Mr. FAIRCLOTH. Mr. President, I rise today in support of Senator HUTCHINSON's bill, the Truth in Employment Act. This legislation is needed to address the problem of salting abuse, which places unfair economic pressure on non-union employers and ultimately costs American taxpayers millions of dollars each year.

In a typical salting case, union operatives gain access to a non-union workplace by obtaining employment with the company. Rather than further the interests of the company or even organize employees, their true objective is to disrupt business operations and increase costs for the non-union employer. This, of course, is achieved in a number of ways, including the filing of discrimination complaints with the National Labor Relations Board or other regulatory agencies.

Mr. President, an overwhelming majority of these cases are dismissed by the National Labor Relations Board as frivolous and without merit. Unfortunately, employers must shoulder the enormous costs of legal expenses, delays, and lost productivity, regardless of their innocence. One such frivolous case involves Burns Electrical Contractors in Charlotte, North Carolina. In 1996, a union salt gained employment with Burns Electric after lying on his application about his qualifications and his past employment. In actuality, he was on a union payroll for $65,000. Within the first week, he began disrupting business, and, after abandoning his job, he was permanently replaced. Of course, discrimination charges were soon filed with the National Labor Relations Board.

More than two years later, the case was still not heard by the National Labor Relations Board. Burns Electric was forced to lay off workers and lost several bids on new construction projects. It incurred an estimated $250,000 in business losses and $10,000 in legal fees. Eventually, Burns Electric yielded to its attorney's advice and settled the case (it is often far less expensive for small businesses to settle than it is for them to contest the charges). Thus, the union salt was successful in disrupting operations and weakening the market share of this company, simply because its employees would not join a union.

Unfortunately, there is no disincentive for filing such a frivolous complaint. The federal government funds the investigation and prosecution of charges. This, of course, results in a considerable tab for the American taxpayer. I am informed that 8,449 cases were dismissed and 8,595 cases were withdrawn during FY 1996, costing taxpayers $780 apiece. In the same year,

2,509 unfair labor practice charges were actually investigated and prosecuted in front of an Administrative Law Judge. The average cost for these cases is $17,500. Finally, 174 charges were appealed to the Circuit Court of Appeals in FY 1996, at a cost of $42,700 each.

As you can see, the Federal government spends millions to process, investigate, and prosecute these complaints. And because most of these charges are frivolous, taxpayers are actually funding the extortion of employers and the manipulation of government institutions. I believe it is wrong to use tax dollars to support this fraudulent and wasteful system.

Mr. President, the solution to this problem is simple. An employer should not be required to hire any individual whose overriding purpose is to disrupt the workplace or inflict economic harm on the business. By making this clear, the Truth in Employment Act will bring fairness to our labor laws and will go a long way toward eliminating waste and fraud in government. I strongly urge my colleagues to support this commonsense legislation and vote in favor of cloture.

Mr. KENNEDY. Mr. President, I think we have 7 minutes.

The PRESIDING OFFICER. The Senator has 7 minutes 37 seconds.

Mr. KENNEDY. I yield 4 minutes to the Senator from Iowa.

Mr. HARKIN. I thank the Senator.

Mr. President, I am sorry I could not have been here earlier to speak against this onerous piece of legislation. The so-called ''truth'' in employment act? It ought to be called the ''fear'' in employment act. Of all the requirements that a person has to go through to get employment, the last thing you ought to worry about is your personal beliefs or what you think.

How is an employer going to find this out? Are we now going to start administering ''truth tests'' to people who seek employment? Are we going to give them an injection of sodium pentothal so they have to tell the truth? Are we going to put them under hypnosis to open their minds?

This is probably one of the most far-reaching, invasive pieces of legislation that goes at the very heart of the Bill of Rights. The freedom of thought—to make sure that people can't force you, either in a court or anywhere else, to testify against your will, testify against yourself, or to force you to tell what you think is fundamental to our liberty. Yet, this bill amends this principle. This legislation would implement a unprecedented chilling effect on employment practices in this country.

I was listening to the Senator, my friend from Arkansas, talk about this. Employers already have the ability to fire workers who neglect their job duties. In fact, under the Hess Mechanical case, they will get attorney's fees for anybody who neglects their job duties and are dismissed, if they file a countersuit in court, for example.

So the more I look at this bill, I have to admit that this is really what I would call—and I listened to the Senator from Massachusetts earlier, listing all of the assaults that have been made on workers' rights since the Republicans have taken charge around here. This bill is just another bill on the Republican donors' wish list. That is all this is; it is nothing more than that.

But beyond that, it is a terribly invasive piece of legislation. Employers already have more power to tip the scales. If we really want to level the scales between employers and employees, we ought to do away with the Striker Replacement Act. We ought to make it so they can't replace striking workers. That would even and balance the scales. But this piece of legislation here, which says an employer can delve into the thoughts of a person—my gosh, how far are we going to go in this country?

Lastly, when it uses the words ''for the purpose of furthering another employment or agency status,'' what does that mean? Does that include, for example, women who come to work and organize to start a day care center? How about racial minorities who may want to organize or petition for a day off to observe Martin Luther King's birthday? That presumably would be covered under agency status. There is no definition of ''agency status.'' I understand what employment status is, but agency status is a broad net that would capture everything—potentially usurping our fundamental freedoms to organize and participate in important causes.

The Senator from Massachusetts has laid out quite eloquently the reasons why this legislation ought to be stopped in its tracks and why we ought to stick up for not just the working people in this country, but for the Bill of Rights and the right of people to think freely and to act freely in accordance with the law.

There was a Supreme Court case 2 years ago, the Town and Country case, with a unanimous opinion of the Supreme Court ruled that an employees affiliation with a labor union or other group cannot affect their employment eligibility. That is what they are trying to overturn here, the Town and Country case. It says that it doesn't make any difference what you think, as long as you are doing your job. If you want to do something outside of the job that is lawful and legal, employers cannot require you to disavow yourself of your right to participate in that activity, whether it be organizing a union or petitioning for workplace child-care centers. I think that is an excellent decision, a unanimous decision. We don't get that many anymore. Yet, this legislation seeks to overturn that Supreme Court decision.

The PRESIDING OFFICER. The Senator has used his 4 minutes.

Mr. HARKIN. I ask for 30 more seconds.

Mr. KENNEDY. I yield 30 more seconds.

Mr. HARKIN. It is a bad piece of legislation, and not just for working people, but for every American, for the Bill of Rights, and for our constitutional rights to be free to think and have our own consciences, this bill ought to be stopped in its tracks.

I thank the Senator for yielding the time.

The PRESIDING OFFICER. Who yields time?

Mr. HUTCHINSON. Mr. President, sometimes when I hear debate on the floor of the Senate, I wonder what bill we are debating or whether the bill being spoken of is actually reflected in the specific provisions.

I remind my colleagues once again that this bill does not overturn the Supreme Court decision, the unanimous Supreme Court decision. It does not infringe whatsoever on the rights of employees to organize. It specifically states in a provision added on page 4, the last part of the last statement in the bill, that nothing in this shall infringe upon or affect the rights and responsibilities of the employee. It comes straight from the Labor Relations Act that says nothing in this can infringe upon that. It says that an employer doesn't have to hire someone whose—it doesn't infringe if they want to organize, for whatever reason, whatever the cost, or whatever thought. It says that if your primary goal in taking that job is not to fulfill the responsibilities of the job but is to further the goals of another organization or another agency, that employer is not bound to hire you. And, yes, they can file a discrimination suit. But now the burden would be upon the NLRB lawyers to demonstrate that, in fact, this person was a bona fide employee applicant.

So the employees' rights are absolutely and totally protected under this legislation.

Mr. President, I ask unanimous consent that Senator GORTON of Washington and Senator KYL be added as cosponsors to this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. Once again, we get this impression that has been presented this morning that somehow these are legitimate organizing efforts. Yet, I have read quotation after quotation from the IBEW and other unions' own organizing manuals that make it very clear that the goal is, in fact, to economically destroy the company and the employer.

So I will throw one more in. This is the IBEW Organizing News Letter, volume No. 1, March 1995, on page 4:

> These companies know that when they are targeted with stripping, salting, and market recovery funds, it is only a matter of time before their foundations begin to crumble. The NLRB charges the attorney fees, and the loss of employees can lead to an unprofitable business.

That is what they want. If they can't organize, they destroy them economically. But it not only destroys them

economically, it costs the taxpayers, because we are paying the NLRB attorneys, and it ruins the reputation of good, hard-working Americans who have invested their lives in building businesses. I can't think of anything more tragic than to spend your life building a business—spending 30 years out there starting as a mom-and-pop operation and gradually adding employees, providing a good place of employment for workers—and then, through this pernicious tactic, see your business destroyed and have to close your doors, to see those jobs lost, and to say that somehow this is antiworker.

I will tell you what is antiworker. It is those who would use that kind of an unconscionable tactic to destroy the economic viability of a business. Yes, it ought to be legal to organize; that is something that ought to be protected by law; it is a precious right of workers in this country. But it is not a right to go in and destroy the economic viability of a company or business of a small business owner. That is wrong. I find it amazing that anybody could come down and defend that kind of tactic. All in the world this legislation would do is stop those kinds of tactics.

Mr. President, when a union salt goes home to his family, his wife, his son, his daughter, and his wife says to him at the end of that day, ''Honey, how was your day?'' or that child says, ''Daddy, how was your day?'' can he look his wife or child in the eye and say, ''Oh, I had a great day. I participated in the destruction of a hard-working American's life dream and his livelihood''?

I hope my colleagues will support this legislation.

I yield the floor.

Mr. HARKIN. Mr. President, how much time is left?

The PRESIDING OFFICER. Senator KENNEDY's time is 2 minutes 32 seconds.

Mr. HARKIN. I ask for 1 minute.

Mr. KENNEDY. I yield 1 minute to the Senator from Iowa.

Mr. HARKIN. Mr. President, I have been listening to my friend from Arkansas. I read the language of his bill. The words are, ''for the purpose of furthering another employment or agency status.'' It doesn't say for the purpose of destroying the company. Yet that is what he is talking about.

What is wrong with the purpose, for example, of helping to form a union? There is nothing wrong with that. There is nothing wrong for women, for example, wanting to organize to have a day care center, or minorities wanting to organize to have a day off. That is an agency. The words don't say for the purpose of destroying a company. That is the Senator's own thought process. Furthermore, the Senator from Arkansas's argument is faulty in that he claims this ''salting'' activity is carried out to specifically cripple economic viability of a business. However, I ask, what person would destroy the very business, the very thing, their job and living is dependent upon? So it seems the Senator's argument is counter productive.

Mr. HUTCHINSON. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. On whose time?

Mr. HUTCHINSON. My time is up. My time has expired.

The PRESIDING OFFICER. All time is controlled by the Senator from Massachusetts.

Mr. HARKIN. I wish we had more time. We will debate this later.

Mr. KENNEDY. Mr. President, I ask unanimous consent for 2 more minutes, and yield time to the Senator from Arkansas.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, I thank the Senator from Massachusetts. I thank my friend from Iowa for yielding for the question.

If you will look at the language in the bill, clearly the primary purpose is to go in to further the goals of an organization or agency. If we go to apply for a job—I ask for the Senator's opinion of this—it is my understanding that if you apply for the job, the primary purpose would be to fulfill the job, and it is not the primary purpose to fulfill the goals of the organization. That is why the employer would not be required to hire the employee under that. He would not fit the definition of a bona fide employee.

Mr. HARKIN. I thank the Senator. I don't know what the definition of bona fide employee is.

I am reading section 4 of the bill. It says:

> Nothing in this subsection shall be construed as requiring an employer to employ any person who is not a bona fide employee applicant, in that such person seeks or has sought employment with the employer with the primary purpose of furthering another employment or agency status.

It doesn't say for the primary purpose of destroying the company. That is not it at all.

Mr. HUTCHINSON. If I could ask one more question, would the Senator consider hiring someone in his office whose primary purpose was not to work for him, but whose primary purpose was to undermine everything he is trying to achieve in the U.S. Senate?

Mr. HARKIN. No. Obviously, if someone came in with the purpose of working for me and doing a good job for constituents that I represent in the State of Iowa and is willing to do the job, is dedicated to that job but also wanted, for example, to organize an employee's group for day care, or for minorities rights, or whatever, absolutely I would hire that person. I would do it in a minute. But that example begs the question, how can employer determine a prospective employee's thoughts, intent, or motives? Subsequently, arbitrarily deny employment to someone because they suspect they had ulterior motives. This is bad legislation that deserves to be defeated. We should be concerned with ensuring fairness and equity for the workers rather than further tilting the scales in favor of unscrupulous employers.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. First of all, I will include in the RECORD the scores of letters from small businessmen and women across the country that reject the Senator's proposition and hope that this legislation will not be included.

Second, Mr. President, any of the circumstances that the Senator has outlined here can be prosecuted under law at the present time.

The idea of conjuring up all of these horror stories and then saying that is what happens in the workplace as a matter of course is fundamentally wrong. That is not the case. If you have disruptions, there are perfectly adequate ways of addressing them.

Finally, Mr. President, the Supreme Court has upheld the concept that one can be interested in a good job with good working conditions, believe in a union, and also be interested in furthering the interests of the company. That is what this proposal would overturn.

Mr. President, I think all of our time has been used up.

I yield 36 seconds.

Mr. WELLSTONE. Mr. President, I just say that I thank my colleague. My understanding is that there might be a little time. My plane was delayed. I will wait. I thank my colleagues.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FRIST). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GORTON. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The bill clerk continued with the call of the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. Under the previous order, the hour of 1 p.m. having arrived, the Senate will now resume consideration of S. 2237, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 2237) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes.