

people by transferring all of the burden of the costs of rendering justice in the courts from the wealthy, well-connected and privileged to the individual small investor. The clear result of imposing a "loser pays" rule would be to destroy regular Americans' rights under the Federal security laws to have access to the Federal courts.

Mr. Speaker, by disproportionately transferring to plaintiffs the burden of the cost of pursuing securities litigation this bill is clearly in opposition to over 200 years of American common law. Furthermore, the reasoning behind this unfair and unjust bill is not supported by the facts. So-called frivolous lawsuits actually make up a minute portion of all lawsuits litigated in this Nation. Noted securities law experts like Professor Arthur R. Miller of the Harvard Law School have pointed out that: "There is absolutely no evidence that the 1 percent of cases on the Federal court docket under the Securities Acts is any different, in terms of the problem of frivolousness, as the other 99 percent of the Federal judicial docket."

Under current law, the Federal rules of civil procedure give judges the opportunity to hold attorneys accountable for bringing frivolous lawsuits. Rule 11 of the Federal rules of civil procedure presently authorize Federal courts to impose sanctions upon attorneys, law firms, or parties for engaging in inappropriate conduct or for bringing frivolous or harassment lawsuits. The facts clearly show that despite the fact that there were thousands of cases filed last year, in less than 1 percent of those cases did Federal judges determine that rule 11 sanctions were justified.

Mr. Speaker, we have also been told that frivolous securities lawsuits are at the crest of a wave of securities litigation that is overwhelming the courts and sapping the strength of corporate America. Neither statement could be further from the truth. This is confirmed by the testimony by the Securities and Exchange Commission's William R. McLucas, who testified that: "According to statistics obtained from the Administrative Office of the U.S. Courts, the approximate aggregate number of securities cases—including SEC cases—filed in Federal District Court does not appear to have increased over the past two decades." In fact, the figures from the Administrative Office of the U.S. Courts also reveal that in 1993 there were 298 class-action lawsuits, slightly less than the 305 filed over 20 years ago in 1974.

Mr. Speaker, while I am sympathetic to the goal of eliminating frivolous securities litigation, H.R. 1058 in its present form fails to provide adequate protection or incentives to preserve the rights of victims of abuses of the securities laws, and in particular, those investors and consumers in my home State of Ohio.

As you all know, several municipalities and counties throughout the United States have been plagued by massive losses as a result of involvement in risky securities investments. My home district has not been immune to the abuses that exist in the securities brokerage industry. Due to the high risk leveraging and derivatives investments peddled by many Wall Street brokerage firms, Cuyahoga County's \$1.8 billion investment pool, the Secured Asset Fund Earnings [SAFE], has been dissolved, and these investments have cost Cuyahoga County taxpayers approximately \$122 million. More than 70 government agencies, including Ohio cities, counties, and school districts participated in the SAFE fund, which

held more than one-fourth of its investments in these highly speculative securities. As a result of SAFE's losses and dissolution, Cuyahoga County has had to cut next year's budget by 11 percent—\$35 million—and will freeze spending for 3 years after that.

This bill would clearly protect wrongdoers from lawsuits brought against them by defrauded investors. The "loser pays" requirements, loopholes and limited liability would make it virtually impossible for my constituents who have been victims of SAFE's collapse to seek judicial redress, should fault turn out to have contributed to its demise.

American securities markets are the envy of the world. They provide magnificent benefits to investors and businesses alike. Despite the claims of supporters of this bill that securities litigation is hampering capital markets. The facts reveal that initial public offerings have proceeded at a record pace in recent years, and a long list of notorious cases have recovered billions of dollars for thousands of defrauded investors.

Our markets attract investments because investors have confidence in securities industry honesty and efficiency. All investors are aware of the fact that there are risks attached to any investment, and these investors are willing to take such risks in exchange for the potential gain. Yet, investors are not prepared to be defrauded and swindled out of their hard-earned money. So when any investor is defrauded, the entire securities industry is placed at risk. Private securities actions actually represent an efficient and effective privatization of National Policy to counteract financial fraud. H.R. 1058 would seriously compromise such a counteraction.

Mr. Speaker, it is my belief that H.R. 1058, and the circumstances under which it is presented in this House, attempt to mislead the American people to believe that cookie cutter, simplistic solutions will cure what ails this Nation. Nothing could be further from the truth. As our Nation faces an epidemic of financial difficulties, bankruptcy and the abuse of consumer and citizens funds, the solution to these problems will not be found in quick fixes like the Securities Litigation Reform Act. The American people elected us to act in their best interest, not compromise their welfare because Government refuses to have the courage to meet its obligations. I urge my colleagues to join with me and vote against this bill.

TRIBUTE TO DOCTORS PHYLLIS AND RAY PHILLIPS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 14, 1995

Mr. GORDON. Mr. Speaker, I rise today to pay tribute to two outstanding individuals from the Sixth District of Tennessee who are being honored upon their retirement.

Drs. Phyllis and Ray Phillips have made tremendous contributions to the field of higher education, and their leadership has been invaluable.

By their very example, Ray and Phyllis Phillips have committed their lives to helping others learn. They have taught in Tennessee and Alabama, and their talents have taken them as far away as Augsburg, Germany to lead and participate in the American schools program.

Phyllis Phillips has shared her expertise in speech pathology, audiology, and speech communication through almost 50 years of teaching in elementary and secondary schools. In 1983 she joined Cumberland University in Lebanon TN, and in her 12-year tenure, developed a working adult degree program and helped develop the Cumberland University Fine Arts Council. She is responsible for helping countless children and adults overcome their battles with speech and hearing problems.

The board of trustees of Cumberland University named Dr. Phyllis Phillips "Professor Emeritus" in recognition of her tremendous contributions to education, speech pathology, and communication.

Dr. Ray Phillips earned his undergraduate degree from Cumberland University in 1941. His love for his alma mater never left him, and, in 1983, he returned to Cumberland with his wife to assume the vice presidency for academic affairs. He assisted my colleague from Tennessee, Bob Clement, then president of the university, in establishing the institution as a 4-year degree program.

In 1991, he was named the 23d president of the university. Enrollments during his administration were recordbreaking, and he aided in the development of the sports medicine and fine arts programs.

Dr. Phillips was honored with his wife by the board at Cumberland in 1994. He was named "President Emeritus" and "Professor Emeritus" for his outstanding service.

I join with those at Cumberland University and Tennesseans all across the State in thanking the Phillips' for their tireless dedication and enumerable contributions. We wish for them a happy and fulfilling retirement.

COURT REPORTER FAIR LABOR AMENDMENTS OF 1995

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 14, 1995

Mr. FAWELL. Mr. Speaker, I am joined by my colleague, Mr. BARRETT of Nebraska, Mr. ANDREWS, Mr. HOEKSTRA, and Mr. CHRISTENSEN, in the introduction of the court reporter fair labor amendments of 1995. The Department of Labor [DOL] has adopted a position concerning the status of official court reporters under the Fair Labor Standards Act [FLSA] which, if allowed to stand, threatens State and local courts with explosive liability costs and could force them to take actions which would result in severe job losses and reduced income for thousands of court reporters.

In most States, court reporters are typically employed by the State or local court with primary duties of taking down and reading back court proceedings. They are considered employees of the court and are typically compensated with an annual salary and benefits. While performing these duties, the court reporter—unless he or she falls within one of the FLSA's exemptions—is entitled to overtime compensation for work performed in that capacity in excess of 40 hours in a given work week.