

THE SOCIAL SECURITY TRUST  
FUND

**HON. J. DENNIS HASTERT**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 14, 1995*

Mr. HASTERT. Mr. Speaker, it is time to measure our progress in protecting the Social Security Fund, specifically the Old Age and Survivors Insurance Fund [OASDI]. This is the fund into which we all pay throughout our working lives and from which we expect to receive benefits when we retire.

In my tenure in the House of Representatives, I have had the opportunity to cast votes to protect the Social Security trust fund several times. Perhaps the most important vote I have cast was in 1990 when I voted to take the Social Security trust funds "off-budget." The purpose of this action to ensure that the Social Security trust funds would no longer be used to mask the true size of the Federal deficit. Instead, the trust fund would have a separate account. The administrative costs of the Social Security Administration were not taken "off-budget."

This action moved us closer toward honest accounting procedures and away from the concept of the "unified budget," a mechanism to place all revenues in one large pot from which the Government can draw. However, it turns out that the language included in the 1990 law was not enough to protect the trust fund.

In 1993, President Clinton undermined the trust fund by proposing a tax on Social Security beneficiaries at a rate of 85 percent of their benefits. The money collected from this tax would not go back into the trust fund, but was instead diverted to other programs in the Federal budget. I strongly opposed this tax. In fact, I went to the Rules Committee and offered an amendment to strip this tax on Social Security from the underlying budget legislation. But, the Rules Committee did not allow my amendment and the 1993 budget containing the tax on Social Security benefits passed into law with my strong objections.

Later in 1994, I had the opportunity to cast a vote in favor of making Social Security an independent agency. This legislation passed the House and Senate and became law. This means the Social Security Administration [SSA] is no longer counted as part of the Department of Health and Human Services. Thus, the budget for Social Security is completely contained in one agency and the administrative costs of the trust fund are clear and set aside with the "off-budget" trust funds. For the first time, there will be a bipartisan governing board that insulates the SSA from political influence and the everyday fiscal policy decisions of the administration in power. In fact, several improvements in the Social Security system as a whole will result from this change. It will now be much easier to monitor and thus, protect the Social Security trust funds. I am proud to have supported this important change in the system that bolsters the security of the trust funds.

This year, I cast a vote to support the balanced budget amendment [BBA]. This, too, was a vote to protect the security of the Social Security trust funds. During consideration of the BBA I voted for an amendment offered by my friend from Illinois, Representative FLANA-

GAN, to express the sense of the House of Representatives that Social Security would not be used to balance the Federal budget. This amendment passed and will provide crucial direction to the House in future years as we seek to balance the budget.

However, if Social Security had been statutorily exempt from cuts, I believe there are many who would try to expand Social Security to include benefits for nearly every group of Americans imaginable. Many of the benefits paid out by the Social Security Administration do not go to retirees, but rather drug addicts, children with learning disabilities and the like. I am fearful that this would not only continue, but expand under a system where only Social Security had an "exempted" status.

I have explained several key votes I have taken to protect the Social Security trust funds in the past several years. I do this because the people in the 14th district of Illinois want to know that their retirement benefits are safe.

In fact, a group that believes strongly, as I do, that these benefits be removed from the national budget and set aside for the intended use of retirees has recently contacted me. I have presented this history of my position to indicate that I am in full agreement. Congress should not use Social Security funds to balance the budget or mask the budget deficit, but rather to fund the earned benefits of our country's senior citizens.

FIFTIETH ANNIVERSARY OF  
FRANKLIN ROOSEVELT'S DEATH

**HON. RICHARD E. NEAL**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 14, 1995*

Mr. NEAL of Massachusetts. Mr. Speaker, as we approach the month of April, the Presidential library founded by Franklin Delano Roosevelt will inaugurate a series of exhibits, events, films, and a play to commemorate the 50th anniversary of the death of America's 32d President. I would like to submit for the CONGRESSIONAL RECORD an article by a constituent of mine, Edmund Walsh.

FDR'S LEGACY CONTINUES AT HYDE PARK  
LIBRARY

(By Edmund A. Walsh)

Starting April 1, 1995, the presidential library founded by Franklin Delano Roosevelt will inaugurate a series of exhibits, events, films, and a play to commemorate the 50th anniversary of the death of America's 32nd president. The commemorative activities will start with an exhibit entitled "1945—The Year That Changed Your World." This program will cover FDR's inauguration for an unprecedented fourth term, with Harry S. Truman, former senator from Missouri, sworn in as his vice president. The exhibit will profile the Yalta Conference, where Roosevelt, Churchill and Stalin met to lay plans for the post-WWII world. The April program continues with displays showing the transition from "The New Deal to the Fair Deal" when a stunned Truman becomes president and moves to continue FDR's steps towards peace.

The "1945" presentation continues with the funeral of FDR and a description of "The Unfinished Legacy of the New Deal," and "The Birth of the United Nations." (Roosevelt passed away on April 12, 1945 in Warm Springs, Georgia; just two weeks before he was to host the San Francisco meeting that

saw the birth of the United Nations). "VE Day," Victory in Europe will be honored. The exhibit will also cover "The Atomic Bomb" and "The End of World War II." The April program concludes with a presentation of the president's legacy of leadership.

A film and discussion series follows the "1945" exhibit with programs covering the Yalta conference in May and the atomic bomb in June. President Truman is the subject of the July segment.

A public debate on the legacy of FDR will be presented by teams from Marist College and United States Military Academy at West Point in late April. This will interest those interested in the FDR years, as well those closely following the continuing discussions in Congress concerning entitlement programs. Chief among those programs is the Social Security Act, a major betterment of the early Roosevelt administration.

The Memorial Day weekend will feature a bivouac and salute to FDR by the Duffel Bag group of Carmel, New York. This group, founded ten years ago, is composed of 300 men, women, and some children, who reenact WWII battles, march in parades, and stage exhibitions of their equipment and vehicles.

Duffel Bag was conceived and promoted by Brian Benedict, a Carmel dealer in military surplus goods. Recently, Benedict said, the group reenacted the Battle of the Bulge in Indian Gap, Pennsylvania. They performed at half-time of the Army-Navy game in 1993 and are scheduled to appear again in this year's game.

At Hyde Park, Benedict went on, the Duffel Bag associates will create an attempt by enemy commandoes to kidnap President Roosevelt. The "army's" assignment will be to deny the attempt. Benedict promised a skirmish between the forces, complete with simulated gunfire. Kids of all ages, he said, are welcome to inspect their equipment which will include jeeps, trucks, and possibly half-tracks and light armor.

August will see the presentation of the nationally-known "Sunrise at Campobello" by the Rhinebeck Theatre Group. This drama tells the story of the summer of 1921 when FDR contracted polio. Theatre goers may remember the original Broadway presentation with Ralph Bellamy in the title role.

Since the wartime president always considered himself first and foremost a farmer, the FDR Library in conjunction with the Dutchess County Cooperative Extension, will present its first Agricultural Heritage Day in September. Farm groups, a farmer's market and various environmental groups will participate.

Other activities are planned for Warm Springs, the New York Museum of Television and Radio, and at Roosevelt University in Chicago. For more information on the plans at Hyde Park or other locations, call 800-FDR-Visit or 800-337-8474.

INSIDE SALES COMPENSATION

**HON. HARRIS W. FAWELL**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 14, 1995*

Mr. FAWELL. Mr. Speaker, today I am joined by my colleague, Mr. PETRI, in the introduction of legislation to amend the Fair Labor Standards Act of 1938 [FLSA] to make uniform the application of the overtime exemption for inside sales personnel. This legislation is necessary to repair the inequity that presently exists between retail and wholesale establishments.

Under the FLSA, the treatment of sales people for overtime purposes varies significantly based on circumstance. As it now exists, a wholesaler's inside salesperson must be paid time-and-one-half for his or her additional hours, while the employee performing precisely the identical job at a retail establishment does not. During an economic downturn, these costs are considerable and have contributed to layoffs and comparable overhead reduction.

In 1938, Congress had no way of foreseeing the effect that distinctions in the overtime law could have a century later. Differences based on an ability to supervise or a retail-wholesale dichotomy no longer serve a useful purpose. As old practices of doing business change, the differences between a wholesaler's sales staff and a retailer's sales staff are no longer significant.

This legislation would make the application of this particular overtime exemption under the FLSA consistent for retail, wholesale, and service establishments. I would like to note that the provisions defining who is covered under section 13(a)(1) of the FLSA and the 541 regulations are very confusing. Apparently, the language in the Act is the result of various amendments over the years. As we consider this legislation, I hope that we can also work to simplify and streamline the language.

COMMON SENSE LEGAL  
STANDARDS REFORM ACT OF 1995

SPEECH OF

**HON. STEPHEN E. BUYER**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 8, 1995*

The House in Committee of the Whole House on the State of the Union had under consideration the bill H.R. 956, to establish legal standards and procedures for product liability litigation, and for other purposes:

Mr. BUYER. Mr. Chairman, in the past 50 years, the cost of torts—personal injury, product liability, and medical malpractice cases—have grown at 4 times the rate of the overall economy. Currently, the cost of this system is in the neighborhood of \$132 billion.

Other than diversity jurisdiction in Federal court, predominately, tort actions have been tried in State courts. Historically, consumers bought goods and services locally—intra-state—where many companies primarily conducted commercial trade locally. State rules for tort actions were probably quite appropriate. In the last half century, however, interstate commerce has dominated the market. Consumers buy products that are manufactured in other States, with company headquarters in still another State. Companies no longer serve local markets, but sell products nationally, even internationally. The mechanism by which civil disputes are settled has not kept pace with a changing world and its economy.

From 1973 to 1988, product liability suits in Federal courts increased 100 percent; in State courts the increase was between 300 and 500 percent.

This increase in litigation has not come without a price. Because 70 percent of products manufactured in any one State cross State borders before the point of final sale, American manufacturers must contend with the un-

certainty of 50 different civil justice systems. The awards for damages in one State affect the prices to consumers, insurance rates, and job market in other States. According to surveys reported by Pace University Professor of Law M. Stuart Madden, because of liability costs, 36 percent of American manufacturers have withdrawn products from the world market, 47 percent have withdrawn products from the domestic market, 30 percent have decided not to introduce new products, and 25 percent have discontinued new product research.

It can be argued that our tort system is already federalized, except that no consistent standards apply. Even criminals in our criminal justice system face a clear definition of what constitutes crime and there is a limit on what punishment is deemed to be just.

For the average American, the current tort system denies the right of free choice in the marketplace and inflates the prices for available products. It also discourages innovation, retards capital formation and creates a distinct competitive disadvantage in the world market, affecting ability of the economy to create and maintain jobs.

The chief flaws of the existing system is that it is unpredictable and there is little individual responsibility where all are considered victims.

Article I, section 8 of the Constitution gives Congress the power to regulate interstate and foreign commerce. The intent of H.R. 956, the Common Sense Product Liability and Legal Reform Act, is to return a sense of reasonableness and predictability to this system.

H.R. 956 would: First, limit the liability of product sellers; second, limit the liability of manufacturers for injuries due to drug or alcohol abuse, or to the misuse or alteration of their product; third, institute a 15-year statute of repose on product liability; fourth, impose sanctions for bringing frivolous product liability suits; fifth, eliminate joint liability for non-economic damages in product liability suits; sixth, require a higher standard of proof for punitive damages in all civil suits; seventh, cap punitive damage awards in all civil suits at \$250,000 or 3 times economic damages, whichever is greater, and eighth, require strict standards of proof for claims against biomaterial suppliers.

In no way does H.R. 956 limit the ability of a plaintiff to recover actual economic loss—medical bills, lost wages, and the like.

This legislation will help benefit many of the small businesses in the 5th District of Indiana. Let me site just two examples.

Whallon Machinery of Royal Center, IN, manufacturers industrial material handling machines. The machines incorporate hydraulic and pneumatic components as well as sophisticated electronics. This equipment can be found in nearly every State and many foreign countries. In nearly 30 years of business, over 83 percent of all machines built are still in use. In 1993, Whallon received notice of an incident involving their equipment. Previous to this, Whallon had no product liability claims. A customer modified a Whallon machine to the extent that an operator could place himself into the working mechanism of the equipment while the machine was still in automatic operation. An operator, without first hitting the emergency stop button, as instructed by the owner of the machine, entered the machine while it was running and sustained injuries. Whallon ultimately settled out of court.

Whallon was quickly affected by this. First, its insurance carrier decided to not renew Whallon's policy. New insurance was found but at nearly 4 times its 1993 premium. The company had to alter plans for plant improvements and expansion, which meant neither additional hiring nor improvement in employee benefits.

In another example, medical device manufacturers, such as BIOMET, Zimmer, DePuy, and Danek in Warsaw, IN, provide critically needed products to patients across the country and in the world. Medical device manufacturers have improved the quality of life for countless individuals, through pacemakers, heart valves, artificial blood vessels, hip and knee joints.

Three major suppliers—DuPont, Dow Chemical, and Dow Corning—recently announced that they would limit, or cease altogether, their shipments to medical implant manufacturers. Under current law, suppliers of the raw materials used in implantable devices may be brought into the litigation process. Huge damage awards are often sought from these biomaterial suppliers, even though suppliers have no role in the design, manufacturer, or sale of the implantable device. The courts are not finding the suppliers liable—one supplier has a record of 258 to 1. Nevertheless, it can cost millions to defend and win these lawsuits. The risks and costs of responding to product liability suits far exceeds the limited revenues generated from the sale of these materials and it is driving suppliers away from the medical device industry.

Alternate suppliers have been identified for certain of the materials, but they have expressed similar liability fears. In many cases, no other supplier exists. Alternate suppliers will likely sell materials only to those medical implant companies with the financial ability to back stringent indemnification agreements. According to Dane Miller, president of BIOMET, he is having to look at offshore biomaterial suppliers and the substitute materials made available may be substantially different and require quality assurance and new testing. Small implant manufacturers and start-up companies, however, are not in a financial position to guarantee adequate indemnification to suppliers. Small medical technology manufacturers are a primary source of innovation in the medical technology industry.

By limiting liability to instances of genuine fault, H.R. 956 will enable life-saving and life-improving medical devices to remain on the market.

We must return a sense of reasonableness to ensure that injured parties are compensated in a manner that protects all consumers and America's competitiveness. H.R. 956 is a good start in that direction.

STOP TERRORISM

**HON. CHARLES E. SCHUMER**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 14, 1995*

Mr. SCHUMER. Mr. Speaker, I rise today to bring your attention to an ad that recently ran in the New York Times, the Wall Street Journal, the International Herald Tribune, and the New Republic sponsored by the American Jewish Committee [AJC]. This ad is part of