COMMUNICATIONS ACT OF 1995

SPEECH OF

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1555) to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid development of new telecommunications technologies:

Mr. RADANOVICH. Mr. Chairman, I intend to vote for H.R. 1555 and against attempts to weaken it.

I believe in competition. I believe in reduced regulation. I want markets, not mandarins of the bureaucracy, to control what communications services are available to us and how much we pay for them.

The electorate's message that came here with us was a clear signal. It rises above the din of those who clamor for controls.

The people told us get the bureaucrats out of our houses and off our lines. Americans reject the idea that privileges or special advantages should be given by government to certain companies, allowing them to carry on a particular business and control the supply of certain services.

Much as our constituents may enjoy the game of Monopoly, they don't want its impact on their real-life pocketbooks.

I intend to keep my word to the people I represent. Their final judgment will not be modified by me.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

SPEECH OF

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2127) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1996, and for other purposes:

Mr. OWENS. Mr. Chairman, in connection with the remarks I made on August 2, 1995, I wish to submit the following additional remarks and extraneous materials which include the following items:

A. The letter of dying coal miner Jacob L. Vowell killed with 183 others in a coal mining accident.

B. The text of articles on OSHA which appeared in the Washington Post on July 23 and July 24.

C. A summary of the quotes which were contained in the Washington Post articles.

LETTER OF DYING COAL MINER JACOB L. VOWELL KILLED WITH 183 OTHERS

Ellen, Darling, goodbye for us both. Elbert said the Lord has saved him. We are all praying for air to support us, but it is getting so bad without any air.

Ellen I want you to live right and come to heaven. Raise the children the best you can. Oh how I wish to be with you, goodbye. Bury me and Elbert in the same grave by little Eddy.

Goodbye Ellen. Goodbye Lily. Goodbye Jemmie. Goodbye Horace. Is 25 minutes after 2. There is a few of us alive yet.

JAKE and ELBERT.

Oh God for one more breath. Ellen remember me as long as you live. Goodbye Darling.

Letter written by Jacob L. Vowell while he and 26 others barricaded inside a Tennessee mine after a May 19, 1902, explosion. Although the makeshift barricade held out the bad air for over 7 hours, the trapped mines were eventually overcome by suffocating gases. The disaster claimed 184 lives.

[From the Washington Post, July 23, 1995]

THE HILL MAY BE A HEALTH HAZARD FOR SAFETY AGENCY—SHIFT IN POLITICAL FORCES BRINGS GOP PUSH TO WEAKEN OSHA

(By Michael Weisskopf and David Maraniss)

Thomas Cass Ballenger, in his rolls as small-town industrialist, civic benefactor and veteran congressman from the western hills of North Carolina, always displayed a talent for fund-raising. But the money never came easier than during the congressional elections last fall, when he traveled around his state soliciting contributions for candidates who would serve as ground troops for the Republican revolution.

Whenever Ballenger spoke, checkbooks opened at the mention of the Occupational Health and Safety Administration (OSHA), a regulatory agency that had emerged as a symbol of everything the business world disliked about the federal government. His vision of a House of Representatives controlled by Republicans, as Ballenger later described it, went like this:

''I'd say, 'Guess who might be chairman of the committee who'd be in charge of OSHA?''

''And they'd say, 'Who?'

''And I'd say, 'Me!'

''And I'd say, 'I need some money.'

And—whoosh!—I got it. This was my sales pitch: 'Businessmen, wouldn't you like to have a friend overseeing OSHA?' ''

Indeed they would

They liked the idea so much that they gave Ballenger more than $65,000 to distribute to Republican candidates, including five from North Carolina who went on to win seats previously held by Democrats. The partisan transformation of the Tarheel delegation was an essential part of the Republican takeover of the House, and it led, among other things, to a new and decidedly pro-management chairman for the House subcommittee on work-force protections—Cass Ballenger. A panel that for years had been controlled by the son of a Michigan auto worker killed in an industrial fire was now headed by a deceptively easygoing, 68-year-old good old boy from Hickory who was educated at Amherst, inherited his family's box company and made his fortune producing plastic bags for underwear.

Ballenger and his allies are now fulfilling a promise made during the campaign. With the strong lobbying support of business coalitions, including corporations who are both repeated OSHA violators and leading financial contributors to the GOP, they are pushing the first viable legislative effort to diminish OSHA's powers since its creation a quarter-century ago. The Safety and Health Improvement and Regulatory Reform Act of 1995 would shrink the size of the investigative staff, shift the emphasis to consultation, eliminate separate research and mine-safety operations, and curtail the agency's powers to penalize workplaces that fail to meet federal health and safety standards.

Most of the attention in the House this seminal political year has been focused on the ''Contract With America,'' the balanced budget and Speaker Newt Gingrich's pronouncements. But the OSHA measure is at the center of a quieter struggle, albeit one with major philosophical and economic consequences. The refashioning of OSHA—in combination with attempts to repeal wage and union security laws enacted over the decades by Congress's old Democratic majority—amounts to what labor scholars call the most serious effort to rewrite the rules of the American workplace in the postwar era.

The vast bureaucratic system constructed from those laws was based on a question of trust: Whom do you trust with a worker's welfare—the employer or a federal regulator? The time has come, members of the Republican Congress argue, to reword the answer. ''I think employers now take a different approach with their workers than they have in the past,'' said Rep. Lindsey Graham, a freshman Republican from South Carolina and a member of Ballenger's subcommittee. ''My job is to get the government up to speed with the times. And the times for me are to reevaluate the role of a the federal government in private business. If you believe that is the mandate, OSHA is a great place to start.''

Although OSHA was established during the presidency of Richard M. Nixon and has been run by Republican-appointed administrators for 18 of its 25 years, it is scorned by House Republicans as the archetype of a liberal program gone astray. They describe it as a place where swarms of inspectors swoop down to intimidate innocent merchants, professionals and manufacturers, drown businesses in paperwork and are more interested in imposing fines than ensuring safety.

''They need to do what the hell they're told,'' said Charles W. Norwood Jr., a dentist from Georgia and the most intense of the Republican freshmen I his dislike of OSHA. ''They've been sitting in their little cubicles for 25 years thinking they knew what was best for every industry in this country. They don't. And they don't want to know. All they want to know is what they can get away with to collect money from us.''

Many Democrats find their predicament ironic. Year after year they complained that OSHA was ineffective and needed more inspectors and tougher standards. I the last session of congress, before they lost control, they pushed legislation that would strengthen the agency in the very places where Republicans seek to weaken it. But now they are caught in a rear-guard action defending the status quo, arguing that OSHA, for all its faults, has been a savior for American workers. They cite statistics showing that OSHA saves an estimated 6,000 lives each year and has led to significant decreases in workplace injuries and illnesses. Behind the cover of reform, they say, Republicans are exacting corporate revenge, using the paperwork complaints of small businesses to enrich the management class at the expense of blue-collar workers.

The arguments mark a profound shift of political forces. For years business had felt an obligation to pay homage to the Democratic masters of Congress, even where their interests differed. The Republican takeover created opportunities to bring politics in line with corporate objectives, none more important than rewriting labor laws and loosening the grip of government regulations. In moving from a marriage of convenience to one of shared passions, the business world has showered the Republican Congress with financial rewards. In a single evening last May, at the ''New Majority'' dinner to

raise money for the next congressional election, companies lobbying for labor law changes gave more than $1 million.

With the stakes so high, the debate over OSHA has crackled with fiery rhetoric and melodramatic anecdotes.

From the business world comes a bumper sticker that only slightly exaggerates the prevailing sentiment: ''OSHA is America's KGB—It Turns the American Dream into a Nightmare.'' In the matter-of-fact words of Rep. John A. Boehner of Ohio, a former plastics salesman who now serves as chairman of the House Republican Conference and the leadership's liaison to business: ''Most employers would describe OSHA as the Gestapo of the federal government.'' Business leaders pass along tales of bureaucratic overzealousness, such as the case in Augusta, Ga., where a nonprofit group was fined $7,500 by OSHA for using mothballs to chase squirrels out of the attic and failing to post a notice describing the chemicals contained in the mothballs.

From labor comes a sarcastic title for Ballenger's bill—the Death and Injury Enhancement (DIE) Act of 1995. Democrat Major R. Owens of New York, ranking minority member of Ballenger's panel, reads off the names of men and women killed in the workplace and likens the toll to the death count in Vietnam. Unionists recount workplace tragedies that might have been avoided if not for management carelessness, such as the case in Grand Island, Neb., where a maintenance man at a meatpacking plant had his ''head popped like a pimple,'' in the indelicate phrase of a coworker, when he tried to retrieve his pliers from a carcass defleshing machine that turned on because it lacked the required safety locks.

SEE WHAT CAN HAPPEN?

Cass Ballenger saw more than a few workplace injuries during his years as a manufacturer in Hickory, an industrial town whose streets are lined with hosiery mills. When he switched his family business from boxes to plastic bags, he often worked the machines himself. A contraption called the scoring machine was particularly troublesome, he said. ''The clutch on it was mechanical and the dang thing always slipped. You'd be wiping grease off it and the cloth would get caught in the gears and, thwack, it would just cut your fingers off.''

That was before the days of OSHA, Ballenger noted, and employers and workers relied on ''simple common sense.'' Ballenger kept all his digits, but when someone at his plant lost a finger, he would say, '''See what can happen? Put the guard back on and don't do that again.' You'd learn not to do that anymore.''

From the first time inspectors visited his factory, Ballenger's relationship with OSHA was quarrelsome. ''They came into my plant and they told me that my loading dock was unsafe because it didn't have a barrier to keep people from falling off,'' he recalled in a recent interview. ''And so I said, ''Well, let me ask you something, if you put a barrier up, how do you load? They thought about it and said maybe they were wrong.''

Ballenger is a southern storyteller who acknowledges that he occasionally delves into hyperbole to make points. Whether the loading dock inspection happened precisely as he remembered it is unclear. There are no records of the event. But it is important for two reasons. First, in the business world's catalogue of nonsensical OSHA actions, which is an assortment of documented cases and utter myths, the loading dock episode is prominently featured, told and retold in various versions around the country. Second, it shaped Ballenger's perceptions from then on as he dealt as a lawmaker with OSHA.

North Carolina is among two dozen states where federal OSHA standards are enforced at the state level. When Ballenger was in the legislature in Raleigh, he sat on the committee overseeing OSHA and constantly fought with the state labor commissioner, John Brooks. ''Every time John came in and said, 'We are underfunded and need more inspectors,' and told us how it was awful that we didn't think about the health and safety of the workers of North Carolina,'' Ballenger said, he would be thinking, ''Here's this horse's ass who runs a lousy operation asking us for more money.''

There was a personal aspect to Ballenger's animosity that extended beyond the loading dock incident. He accused Brooks of conducting ''political raids'' on his bag plant, inspecting it three times only because he was a prominent Republican in what was then a Democratic state government. Brooks called the accusation groundless: Factories were chosen for inspection by a random computer system. ''There is no human way to tamper with that system,'' Brooks said, ''Cass knows that and was offered the opportunity to see it working.''

''If you believe that,'' Ballenger responded, ''I've got a bridge I'd like to sell you.''

SYMPATHETIC TO THE CAUSE

From the time he reached Washington in 1987 as a House freshman, boasting that he was the only member who had been cited for workplace violations, Ballenger worked on OSHA legislation with a group of Republicans on the old Education and Labor Committee. Their efforts were defensive, trying to stop the Democrats and their labor allies from expanding the agency's powers. ''Then, all of a sudden, oops! We got control,'' Ballenger said of the 1994 elections.

His first task as chairman of the workforce protections subcommittee of the renamed Economic and Educational Opportunities Committee was to pick a team of Republicans lawmakers to help him remake OSHA. ''I wanted people sympathetic to the cause,'' he said. ''I was looking for pro-business people.''

Harris W. Fawell of suburban Chicago had been working with Ballenger on OSHA bills during the Democratic era and would be helpful this time around. Bill Barrett of Nebraska carried the complaints of the meatpacking plants in his district. Tim Hutchinson of Arkansas, whose district included the chicken giant Tyson Foods, would look out for the poultry processors. Peter Hoekstra of Michigan, who came out of the furniture industry, ''hated OSHA with a passion,'' Ballenger thought. James C. Greenwood of suburban Philadelphia was the most moderate of the veterans, but Ballenger respected him. ''I asked him where he would stand on OSHA,'' Ballenger recalled. ''And he said, 'I'll be with you.'''

Then Ballenger recruited three freshmen. He brought in David Funderburk, one of the gang of five from North Carolina. ''Oh, I knew Funderburk. Hoo, boy!'' said Ballenger, explaining that he considered his Tarheel colleague even more conservative than he was. When Lindsey Graham, a freshman from South Carolina, signed on, Ballenger hailed his as ''a good old southern boy—you can count on them every time.'' And finally there was Charles Norwood, the dentist from Augusta who arrived in Washington last winter with OSHA dead in his sights. ''Everybody knew about Charlie,'' Ballenger said, smiling.

For all the decades that the labor subcommittees were dominated by Democrats, Republicans who were assigned to the panels tended to include a disproportionate share of moderates. Now, in the first year of Republican rule, Cass Ballenger looked at his group and declared that he was about to have some fun. ''My subcommittee is so conservative it makes me look liberal,'' he said. ''We could kill motherhood tomorrow if it was necessary.''

One of his freshmen put it another way. ''This has been a subchapter of the AFL-CIO for 20 years,'' said Lindsey Graham. ''Now everybody here talks slower—and with a twang.''

PUSHED TOO FAR

Graham and Norwood, whose congressional districts sit next to each other along the South Carolina-Georgia border, provide much of the new twang. They grew up in Democratic families and became the first Republican congressmen from their districts since Reconstruction. In their own ways, they represent the social, economic and philosophical forces behind the Republican revolution and the movement away from government regulation.

The 40-year-old Graham grew up in the textile town of Seneca, where his parents ran the Sanitary Cafe, a bar outside the factory gate. It was a beer and hot dog place with a juke box that played ''Satin sheets to lie on satin sheets to cry on.'' When the factory shift changed at 3 every afternoon, young Graham would see the mill workers ''come in with their shirts covered with cotton, white as they could be. There'd be a finger missing on every other person.''

Although he considered his home town an ''Andy Griffith of Mayberry type place,'' he also saw the failings of the old system. The textile plant treated its workers like children, he said, and placed a greater emphasis on productivity than safety. Graham understood that it was necessary for the government to come in then and make workplaces safer, just as he realized that the segregated system his parents were part of—they made black workers buy beer from a takeout window out back—was wrong and required the force of government action to eradicate.

But by the time Graham ran for Congress last year, he had long since become convinced that the pendulum had swung too far toward federal intervention. He though the role of the government in mandating affirmative action and regulating workplaces had ''gone from being helpful to being the biggest obstacle dividing and polarizing the nation by race and by employers and employees.'' It was his generation's mission, Graham said, to ''correct the excesses of government from the past generation.''

One day during his congressional race, Graham had what his campaign manager, David Woodard, called ''an epiphany.'' Graham had delivered a noon speech at a small-town Rotary Club, where he received a tepid response. Concerned that he had not figured out how to tap into the old southern Democratic establishment, Graham then paid a visit to a textile mill on the edge of town. He later told Woodard that the plant manager was so agitated he threw a sheaf of papers to the ground and bellowed, ''No more damn Democrats. They've got all these inspectors on me. All these crappy regs!''

Afterward, Graham placed an excited call to his campaign manager. ''He said, 'We may not have the Rotary, but we have the people running the mills,''' Woodard recalled, ''From then on, he picked up the theme.''

Norwood, a 54-year-old dentist, sounded that theme from the day he announced for Congress in suburban Augusta, calling himself a businessman ''who just got pushed too far'' by government regulators. It started a decade earlier when OSHA began taking an active role in the dental profession to ensure that employees and patients were not endangered by blood-borne pathogens such as the AIDS virus. Dentists, Norwood said, did not

need to be inspected or told how to maintain safe offices.

Norwood became so upset by the federal health and safety standards, which he said required his dental team to use 200 pairs of gloves each day and set up laundry services within his office, that he began placing an explicit ''OSHA surcharge'' on the bills he sent to patients. The charges amounted to about $10 per visit. When patients complained, Norwood told them to call their congressman. Then he decided that he wanted to be the congressman. Although he had never run for political office, Norwood had developed a state and national network of dentists from his earlier position as president of the Georgia Dental Association. He raised more than $90,000 from his dental colleagues.

Much like Ballenger in North Carolina, Norwood was motivated in part by a personal experience. The Department of Labor had once investigated him for not paying overtime to his office aides after a disgruntled former employee filed a complaint. Norwood said it would have cost him more to fight the complaint than settle it, but he never forgot the $10,000 the incident cost him nor the role of the federal investigators. From then on he referred to them as ''storm troopers.''

One morning on the campaign trail, Norwood turned to his young aide, Gabe Sterling, and asked him to find out who was in charge of OSHA. Sterling called Washington and learned that it was an undersecretary of labor named Joseph Dear. From then on, wherever he spoke to businessmen in his district, Norwood would say, ''You know, that fellow who runs OSHA, that Joe Dear, well when I get up to Washington I'm gonna call that Joe Dear at 5 every morning and explain to him the problems with OSHA.''

It did not take long for Chairman Ballenger to realize that he had a firebrand on his subcommittee. There was no need to reform OSHA, Norwood told Ballenger. They should just close the place down, fire everyone who worked there and then start over. ''The only way to do it is to get rid of that crowd,'' he said.

Ballenger might have agreed, but he knew it would have been counterproductive. ''I said 'That's stupid. You can't win that way. You gotta have a bill,'" Ballenger recalled. I'm smart enough, or dumb enough, to realize that if we don't pass the bill, we haven't done a darn thing.''

[From the Washington Post, July 24, 1995]

OSHA'S ENEMIES FIND THEMSELVES IN HIGH PLACES

(By David Maraniss and Michael Weisskopf)

At 3 in the afternoon of Jan. 30, not long after the Republican majority assumed control of Congress, about 50 of the GOP's powerful allies in the business world gathered in the Washington boardroom of the National Association of Manufacturers. Oil was there, and chemicals, along with freight and construction and steel and small business. They convened as members of a lobbying group known as COSH, the Coalition on Occupational Safety and Health, and they sensed that their time was at hand.

''We're in a position to get something for employers,'' said coalition official Pete Lunnie, opening the meeting.

As he spoke, Lunnie recalled later, he was struck by how unusual it all seemed, especially the optimistic tone. For several years, the business community had been on the defensive, trying to prevent the labor-oriented Democratic Congress from strengthening the powers of the Occupational Safety and Health Administration (OSHA), an agency that business leaders thought was already excessive in its regulatory zeal. The low point had come on April 8, 1992, when an executive had flown cross-country to testify before the House Education and Labor Committee, only to be ignored by the panel's chairman and never called on during a five-hour hearing. Lunnie sent out a membership memo the next day deriding what he called the ''crude affront.''

But now business had friends everywhere. Two former members of the House labor panel had become powers in the leadership: Majority Leader Richard K. Armey of Texas and House Republican Conference Chairman John A. Boehner of Ohio. Boehner, a former plastics salesman, had been deeply involved in OSHA issues in past years and could be counted on again. And in place of William D. Ford, the old Democratic chairman who had snubbed COSH earlier, the key labor subcommittee was now headed by Cass Ballenger, a manufacturer from North Carolina with a long history of antipathy toward federal regulators.

At the strategy session in Washington, Lunnie asked the participants to identify the industry's most pressing problems with OSHA. ''Cass wants our input,'' he said. They spent more than two hours enunciating a catalogue of gripes, from which Lunnie and his core group of lobbyists produced a consensus list of 30 recommendations for revising OSHA. In late February, they typed out the suggestions on a single-spaced piece of paper, which they presented to Ballenger. when Ballenger's work-force protections subcommittee came out with the Safety and Health Improvement and Regulatory Reform Act of 1995 in early June, there was little doubt among congressional insiders about who benefited from each section of the 47-page document. Virtually everything on COSH's wish list was there.

The coalition was the largest of many business groups and lobbyists who found their way to Ballenger's office as the bill was being drafted. ''Id say that any businessman who happened to come up here to see someone in the House would come by my office and say, 'When you draw this thing up, will you look at *this* please?' Ballenger said recently. ''We had several groups that came up with finished bills they wanted. The North Carolina Citizens for Business and Industry, of which I've been a member for 30 years, came up with a complete bill. COSH had ideas. We had ex-heads of OSHA come in here and give us advice. They all knew exactly what I should do.''

DELIVERING GIFTS

The work of revising OSHA and rewriting U.S. labor laws had already begun in Ballenger's shop even before the heavy lobbying started. Weeks before the congressional elections last fall, Jay Eagen, who was then the ranking minority aide on the Education and Labor Committee, had a hunch that the Republicans might gain control of the House and began organizing a plan of action. The staff drafted a document called Agenda 104, named for the 104th Congress. It outlined the issues facing the committee and identified those of highest priority. Labor laws and OSHA topped the list.

When Ballenger assumed control of the subcommittee, he delved deeply into the drafting process, choosing among legislative options presented by aides in daily briefings along with memos from corporate backers. Some industry lobbyists were brought in to press a point or explain its ramifications; others were enlisted to draft specific provisions or vet them. While COSH and other groups enjoyed broad access to the process, one lobbyist had the inside track: Dorothy Livingston Strunk.

A coal miner's daughter from Pennsylvania who arrived in Washington with only a high school diploma, Strunk had undergone a long rise through the ranks to emerge as one of the most powerful voices in the workplace safety field. For years she had been a top Republican aide on the labor committee. In 1987, President Ronald Reagan nominated her to run the Mine Safety and Health Administration, but her appointment was killed in the Senate after strong opposition from the United Mine Workers. During the Bush administration, she moved over to OSHA, where she rose from deputy to acting director.

Now she is a lobbyist for United Parcel Service, a company whose Santa Claus-like public image as the deliverer of presents covers an intensely political enterprise. During the 1994 election cycle, UPS, which is one of the nation's top five employers and has offices in every congressional district, emerged as the nation's No. 1 PAC contributor, giving more than $2.6 million. Like many major PAC givers, it has leaned heavily Republican since the GOP takeover, contributing $210,000 to Republican House members in this non-election year alone. About 9 percent of that amount went to members of the labor panel, including $5,000 to Ballenger.

The relationship between UPS and OSHA has been lengthy and costly. The agency says it has received more worker complaints against UPS than against any other employer, resulting since 1972 in 2,786 violations and $4.6 million in fines—cases that the delivery service says were mostly minor. According to UPS data supplied to the Teamsters Union, in 1992 company workers suffered 10,555 lifting and lowering injuries that required more than first aid. The corporation pays out an average of $1 million a day in workers' compensation.

UPS has an intense interest in revising the OSHA standards, particularly the sections dealing with cumulative stress disorders caused by repetitive motion or lifting. More than 180,000 of its workers perform such tasks, driving the boxy, brown UPS trucks or handling packages. In Strunk, UPS had a lobbyist who knew OSHA regulations inside out and someone with unusual access to the committee where she once had worked. Aides to other members of Congress said that when the bill was being drafted, it was not uncommon for them to enter the committee offices and see Strunk emerging from a back room meeting with Gary L. Visscher, the staffer assigned to write the OSHA bill. When the first version of the bill made the rounds in April, it was often referred to as ''Dottie's draft.''

Her influence is clear in Ballenger's bill. Strunk and other lobbyists from the construction and trucking industries pushed for restrictions on the only tool OSHA now has to prevent cumulative trauma disorders such as carpal tunnel syndrome and back strain. The agency has struggled for years to issue an ergonomics standard that would cover those health problems, but in the meantime has invoked a ''general duty clause'' in its statute to deal with ''recognized hazards'' of the workplace not specifically addressed.

The general duty clause is used against a wide range of otherwise unregulated risks, but starting in the 1980s it became a popular OSHA device to prevent cumulative trauma disorders. By 1990, more than 800 ergonomic violations were imposed by OSHA—one quarter of its general duty clause cases—costing employers more than $3 million in fines. Four UPS facilities were among those cited for package sorting and loading practices. Facing more than $140,000 in fines, the company contested the charges, arguing that there was no specific standard they failed to meet, and OSHA backed off for lack of sufficient evidence.

The Ballenger bill offered an opportunity for industry to achieve what had eluded it

for 25 years. Staff members presented a number of options to narrow the general duty clause, adding language to limit its application. At a crucial meeting in the chairman's office, Strunk presented a historical perspective: The original drafters, she said, wanted the clause to be used sparingly, but over the years enforcers had used it liberally. No matter how they tightened the wording, she said, inspectors could still interpret it more broadly. Ballenger was in no mood to take chances. His bill effectively eliminated the general duty clause by preventing OSHA from imposing penalties where no specific standard exists. Strunk declined requests to discuss her lobbying role on the bill.

Without the general duty powers, OSHA supporters maintain that specific ergonomics standards are needed to deal with the fastest-growing occupational injury. Half of today's work force uses computers, requiring repetitive motion similar to that of slaughterhouse workers cutting meat and grocery store clerks using price scanners. But the Ballenger bill makes it less likely that tough ergonomics standards could be imposed. The measure reverses OSHA policy by requiring regulators to justify the costs to business of implementing any new rule on an industry-by-industry basis. On top of that complex undertaking, the drafters were persuaded by the argument of an Ashland Oil official to have such analyses reviewed by panels of experts, not excluding those from companies with interest in the outcome.

THE FINE PRINT

The Ballenger bill is pro-business in its contours, turning a feared regulatory agency into what labor critics say would amount to a consultant to employers. It would funnel half the budget into training programs and incentives for voluntary action. Large numbers of employers would be exempted from random inspections and given wider latitude to avoid penalties, while the rights of workers to file OSHA complaints would be diminished.

As in the case of UPS and ergonomics, the fine print of the bill shows the influence of many industries. Chemical companies reach one of their longtime goals by keeping states from exceeding OSHA standards on workplace safety, such as the labeling of toxic substances. Another provision, inspired by Dow Chemical Co., would free employers regulated by OSHA from other federal rules that are ''potentially in conflict.'' The proposal is supposed to prevent double regulation, but critics say it would allow industry to bypass more extensive rules of other agencies if they can be shown to be remotely similar.

The iron and steel lobby got Ballenger to drop a requirement that records be kept for work-related illnesses, such as hearing loss, that do not call for medical treatment and lost time. OSHA uses such logs to target troubled industries for inspection—a threat to noisy plants because of OSHA plans to tighten standards for hearing loss.

Perhaps the most contentious section of Ballenger's bill would abolish the federal agency charged with mine safety and transfer its reduced regulatory powers to a weakened OSHA. The Mine Safety and Health Administration is regarded as a regulatory success story, bringing about a sevenfold drop in mine fatalities since 1968. Ballenger's bill would water down its enforcement powers against unsafe mines and loosen the training and inspection requirements. Instead of four inspections per year, underground mines would face one. The requirement for two surface mine inspections a year would be dropped.

Ballenger explains the decision as a budget-driven effort to save money and streamline federal authority. But larger economic constituencies loomed in the background. The most influential adviser advocating the merger was Dorothy Strunk, who after leaving government worked for a Washington law firm that represented mining interests. The proposal is supported by some owners and operators of the rich east Kentucky coal fields, whose small mines are among the most dangerous and the latest targets of the mine safety agency.

And the northeast corner of Ballenger's congressional district, Mitchell County, is the nation's principal producer of feldspar, a sand-like mineral mined on the surface and used in ceramic and glass products. Ballenger met with an official of Unimin Corp., one of the mining outfits there. ''He said what really bugged him was, being above ground and so forth, he gets inspected by both OSHA and MSHA. So he's got two sets of rules to work off.''

HOW DO YOU DEFEND THAT?

While there was basic agreement among subcommittee members and industry allies about the scope of the OSHA bill, there were some moments of tension. Georgia's Charles W. Norwood Jr., supported by some lobbyists, thought the bill seemed too timid, that it was just tinkering with the system instead of reinventing it. In May, a few weeks before the measure was presented, Norwood and his freshmen compatriots requested a meeting with Ballenger. They asked John Boehner from the House leadership to attend and help them make their case.

Boehner had spent much of the previous four years working on OSHA revisions that went nowhere in the face of Democratic opposition. He agreed with Norwood in principle that the committee staffers drafting the bill with Strunk's guidance ''seemed too locked in on what is, instead of what could be.'' On the other hand, he had heard about Norwood's sentiment to just close down OSHA, and realized that was not politically possible.

When the meeting began, Boehner said later, he was more on the side of Norwood and the freshmen. But soon enough he found himself defending Ballenger and explaining to Norwood why certain things could not be done.

''Charlie wanted to prevent OSHA from entering the workplace where there was a serious accident or death if the employer's lost-work ratio was below the industry average.'' Boehner recalled. ''It was one of those issues where you had to walk Charlie through the politics of it, the practicality of it. The politics of it are: 'Charlie, how do you defend that?' If you're going to have OSHA and your goal is to create greater safety in the workplace and somebody dies in the workplace, you have to let them in.''

Norwood contended that unions were using OSHA as an organizing tool. Company managers back in Georgia had complained to him that whenever a union was trying to organize a plant, OSHA would somehow show up and do an inspection because an employee had called in a violation. Boehner and Ballenger satisfied Norwood with two other provisions. Under the revised bill, if OSHA makes an inspection after a death or injury, it can only issue fines directly related to that incident. The bill also requires an employee who sees a workplace violation to take it to the management first. Only if there is no response in 30 days can the complaint go to OSHA.

During his campaign for Congress last year, Norwood had vowed to call OSHA chief Joseph Dear every morning at 5 to tell him what was wrong with his agency. He never followed through on that threat, but he did invite Dear to Meet with him in his congressional office. Norwood complained that the blood-borne pathogen standards were so strict that dentists felt they could not give children their extracted teeth. It was a story that Norwood and other dentists had been telling for years, so common that it even had a name—The Tooth Fairy Story. Like so many of the OSHA ''horror stories,'' as they are called, it fell somewhere between reality and myth. Some dentists did stop giving out extracted teeth, but there was nothing in the law preventing them from doing so.

Norwood also asked Dear about another common story—that OSHA regulations prohibited roofers from chewing gum on the job. Dear said that there was no such regulation. Norwood, according to his staff, later said that he had caught Dear in a lie. Again, there was a fine line between truth and myth. OSHA standards did say that workers could not chew gum in one case: when they were working ''in an area where the level of asbestos is so high that chewing gum could result in the ingestion of asbestos.''

While Norwood and other Republicans on the subcommittee have relied on their catalogue of horror stories to make their case against OSHA, the struggle has a stone economic and political component. Corporations lobbying on OSHA and other labor laws dominated Norwood's list of post-election contributions to pay off his campaign debt. Nearly two-thirds of the money he raised came from corporate members of those lobbying coalitions. More than a third of the $58,000 he has reported raising from PACs for his next election come from these same groups. He sponsors a monthly breakfast round table for business leaders in Augusta, GA., where members can become squires for $250 and knights for $500.

Dentists, who have played an active role in the anti-OSHA movement, gave more than $90,000 to Norwood's last campaign—one-quarter of his contributions from individuals. In turn, he fought to essentially exempt dentists from safety inspections: They fell into the category of small business that would no longer be visited by the green-and-yellow-jacketed OSHA investigators.

Subcommittee member Bill Barrett's largest source of money was from the meat and sugar industries, both of which have had OSHA violations in his rural Nebraska base. His largest contribution came from ConAgra, the agribusiness giant, which also accounted for the largest OSHA violation in his district in the last five years. ConAgra's Monfort meat-packing plant in Grand Island was hit with fines of more than $625,000 after a series of incidents there, including the death of a maintenance man who was beheaded by a defleshing machine that should have been secured with a safety lock.

More than one-third of the PAC money raised by Chairman Ballenger for his 1994 campaign came from corporations that were lobbying for labor law and OSHA changes. The most generous was UPS's PAC, at $10,000. The single largest contributor to the National Republican Congressional Committee from North Carolina was Glaxo Inc., a major North Carolina pharmaceutical firm which has a long history of working in tandem with Ballenger to fight OSHA. When Ballenger was in the North Carolina legislature, Glaxo was fighting a revision in the law which would have required it to have a locked mailbox at the plant gate containing all reports on chemicals shipped into the plant each day. ''You had to change it every day if you received chemical shipments every day,'' Ballenger recalled. The company considered it a paperwork headache. ''Luckily,'' said Ballenger, ''I killed the hell out of it.''

THE WORKING STIFFS

The complaint from labor and Democrats for years was that OSHA was doing too little. Of the 70,000 hazardous chemicals used by industry, the agency had set standards for only 25, an average of one each year. Only in the last two years had it begun moving seriously on ergonomics issues. Despite business complaints about swarms of OSHA storm troopers invading plants, inspections have actually been few and far between. The typical company in North Carolina, for instance, would be inspected once every seven years. In the aftermath of one of the most calamitous workplace disasters of the decade, the Sept. 3, 1991, fire at Imperial Food Products in Hamlet, N.C.; in which 25 people died because there was no sprinkler system and the fire doors could not be opened from the inside, it was determined that OSHA had never inspected the plant.

There were significant gains in some areas, however, which have strengthened the resolve of OSHA supporters this year as they fight for the agency's life. THe impact of OSHA intervention in certain high-risk industries is clear. There have been 58 percent fewer deaths in grain handling and 35 percent fewer deaths in trench cave-ins since OSHA cracked down on those industries. The number of textile workers suffering from brown lung—a crippling respiratory disease—fell from 20 percent of the industry work force in 1978, when OSHA set limits on worker exposure to cotton dust, to 1 percent seven years later.

Democrat Major R. Owens of New York, the ranking minority member of Ballenger's subcommittee, is fond of quoting Speaker Newt Gingrich's line that ''politics is war without blood.'' The Republican attempts to change the American workplace, Owens says, amount to a declaration of war on the nation's working men and women.

But Lindsey Graham of South Carolina, one of Ballenger's activist freshmen, said the Democrats and labor are deluding themselves if they believe they have the working people on their side in the fight against government regulations. When Labor Secretary Robert B. Reich testified before the committee, Graham asked him one question: ''How do you reconcile your agenda with my election?'' Graham, who won 60 percent of the vote in a district where the average income was $13,200, said he counted the times Reich used the phrase ''working stiff'' in his presentation.

''He used the words 'working stiff' 21 times,'' Graham said. ''I wrote it down every time he said it. Well the working stiff, the little guy, elected me. They picked me!''

[From the Washington Post, July 23–24, 1995]

QUOTES OF REPRESENTATIVE CASS BALLENGER

In regard to the idea of Republican run House:

''I'd say, 'Guess who might be chairman of the committee who'd be in charge of OSHA?'

''And they'd say, 'Who?'

''And I'd say, 'Me!'

''And I'd say, 'I need some money,' And—whoosh—I got it. This was my sales pitch: 'Businessmen, wouldn't you love to have a friend overseeing OSHA?''

Talking about the sooring machine:

''The clutch on it was mechanical and the dang thing always slipped. You'd be wiping grease off it and the cloth would get caught in the gears and, thwack, it would just cut your fingers off.''

Before OSHA: employers and workers relied on ''simple common sense.''

After an employee of his lost a finger:

'''See what can happen? Put your guard back on and don't do that again.' You'd learn not to do that anymore.''

About the first OSHA visit to his factory:

''They came into my plant and they told me that my loading dock was unsafe because it didn't have a barrier to keep people from falling off. . . . And so I said, 'Well, let me ask you something, if you put a barrier up, how do you loan?' They thought about it and said maybe they were wrong.''

Speaking about John Brooks, state labor commissioner:

''Every time John came in and said, 'We are underfunded and need more inspectors,' and told us how it was awful that we didn't think about the health and safety of the workers of North Carolina.''

Thinking about John Brooks:

''Here's the horse's ass who runs a lousy operation asking us for more money.''

Speaking of the 1994 elections:

''Then, all of a sudden, oops! We got control.''

About picking his team for the subcommittee:

''I wanted people sympathetic to the cause, I was looking for pro-business people.''

Exchange with Rep. Greenwood concerning OSHA:

''I asked him where he would stand on OSHA, and he said, 'I'll be with you.''

On recruiting freshman members:

Republican Funderburk. ''Oh, I knew Funderburk. Hoo, boy!''

Republican Graham. ''a good old southern boy—you can count on them every time.''

Republican Norwood. ''Everybody knew about Charlie''

About the subcommittee:

''My subcommittee is so conservative it makes me look liberal. We could kill motherhood tomorrow if it was necessary.''

After Norwood's suggestion to just ''shut down OSHA'':

''That's stupid. You can't win that way. You gotta have a bill. I'm smart enough, or dumb enough, to realize that if we don't pass the bill, we haven't done a darn thing.''

Ballenger on the drafting or H.R. 1834:

''I'd say that any businessman who happened to come up here to see someone in the House would come by my office and say, 'when you draw this thing up will you look at this please?' We had several groups that came up with finished bills they wanted. The North Carolina Citizens for Business and Industry, of which I've been a member for 30 years, came up with a complete bill. COSH had ideas. We had ex-heads of OSHA come in here and give us advice. They all knew exactly what I should do.''

Ballenger on meeting with an official from Unimin Corp.:

''He said that what really bugged him was, being above ground and so forth, he gets inspected by both OSHA and MSHA. So he's got two sets of rules to work off.''

Ballenger on Glaxo and OSHA regulations:

''You had to change it every day if you received chemical shipments every day,'' Ballenger recalled. The company considered it a paperwork headache. ''Luckily,'' said Ballenger, ''I killed the hell out of it.''

QUOTES OF REPRESENTATIVE LINDSEY GRAHAM

On Republican priorities:

''I think employers now take a different approach with their workers than they have in the past. My job is to get the government up to speed with the times. And the times for me are to reevaluate the role of the federal government in private business. If you believe that is the mandate, OSHA is a great place to start.''

About subcommittee:

''This has been a subchapter of the AFL–CIO for 20 years. Now everybody here talks slower—and with a twang.''

Talking about patrons of his parents Cafe:

* * * young Graham would see mill workers ''come in with their shirts covered with cotton, white as they could be. There'd be a finger missing on every other person.''

On role of government is mandating affirmative action and regulating workplaces:

[it] had ''gone from being helpful to being the biggest obstacle dividing and polarizing the nation by race and by employers and employees.''

The 'mission' for his generation:

* * * to ''correct the excesses of government from the past generation.''

Plant manager from Rep. Graham's district:

''No more damn Democrats. They've got all these inspectors on me. All these crappy regs!''

Following this Graham placed a call to his campaign manager:

''He said, 'We may not have the Rotary, but we have the people running the mills,'" Woodward recalled.

''From then on, he picked up the theme.''

Graham to Labor Secretary Reich on what the working people want:

''How do you reconcile your agenda with my election?'' Graham who won 60 percent of the vote in a district where the average income was $13,200, said he counted the times Reich used the phrase ''working stiff'' in his presentation. ''He used the words 'working stiff' 21 times. I wrote it down each time he said it. Well, the working stiff, the little guy, elected me. They picked me!''

QUOTES OF REPRESENTATIVE CHARLES W. NORWOOD, JR.

On OSHA inspectors:

''They need to do what the hell they're told. They've been sitting in their cubicles for 25 years thinking they knew what was best for every industry in this country. They don't. And they don't want to know. All they want to know is what they can get away with to collect money from us.''

When speaking to businessmen in his district while campaigning:

''You know, that fellow who runs OSHA, that Joe Dear, well when I get up to Washington I'm gonna call that Joe Dear at 5 every morning and explain to him the problems with OSHA.''

To Ballenger about how to deal with OSHA:

There is no need to reform OSHA. * * * They should just close the place down, fire everyone who worked there and just start over. ''The only way to do it is to get rid of that crowd.''

QUOTES OF REPRESENTATIVE JOHN A. BOEHNER

On OSHA:

''Most employers would describe OSHA as the Gestapo of the federal government.''

Boehner on OSHA meetings with Norwood and Ballenger:

''Charlie wanted to prevent OSHA from entering the workplace where there was a serious accident or death if the employer's lost-work ratio was below the industry average. It was one of those issues where you had to walk Charlie through the politics of it, the practicality of it. The politics of it are: 'Charlie, how do you defend that?' If you're going to have OSHA and your goal is to create greater safety in the workplace and somebody dies in the workplace, you have to let them in.''