dinner and spent a beautiful, cool, starry night sailing on the Sea of Galilee in a replica of ''The Jesus Boat.'' Newly-emigrated Russian Jews entertained with their music as we danced the hora to the ''Have Nagilah.''

I was especially moved also by a breakfast meeting we had with former Soviet dissident Natan Sharansky, whose struggle against a totalitarian regime put him in prison for nine years. Sharansky's only crime was his practice of his religion and his growing commitment he had to Zionism. He became an icon in the struggle of Jews to leave for Israel—to make *aliyah*—and an international champion of human rights. He was sentenced to 400 days of isolation, in so-called punishment cells, conditions that compelled him to go more than 200 days on hunger strike. It was an honor for me to meet the hero Sharanksy who is now enjoying freedom as a resident of Israel.

My most profound and emotional moments came during our visit to the Yad Vashem Holocaust Museum, a permanent memorial to the millions of Jews who, for the nature of their beliefs, were persecuted, suffered and died at the hands of history's greatest menace. Six million Jews died in all; 1.5 million were children. My friend, Congressman Jon Fox of Philadelphia, and I had the honor of placing a wreath at the Hall of Remembrance. I will carry with me forever the vivid memory of the Children's Memorial, where a soft but firm voice carefully read in Polish, German, English and Hebrew the names, ages and birthplaces of all those children known to be among the 1.5 million killed by the Nazis.

Ours was an extraordinary fact-finding mission. It has left an indelible impression on me to ensure a sustained American resolve that forever stands by Israel, our dearest friend and closest ally in democracy and freedom. From history's triumphs and tragedies, we must learn so that mankind does not repeat the mistakes of the past. And, most importantly, we must never, ever forget.

PROHIBIT THE FDA AND HHS FROM REGULATING THE SALE OR USE OF TOBACCO PRODUCTS

HON. L.F. PAYNE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1995

Mr. PAYNE of Virginia. Mr. Speaker, today I am introducing legislation to prohibit the Food and Drug Administration [FDA] or any agent of the Department of Health and Human Services from regulating the sale or use of tobacco products. The bill is in direct response to the proposed rule that the FDA announced last month. Under the Agency's proposal, the FDA would assume broad new powers over tobacco advertising, marketing, and use—powers which Congress has steadfastly refused to grant to the Agency.

I am very pleased to be joined in introducing this bill by Representatives BALLENGER, BAESLER, BOUCHER, COBLE, ROGERS, HEFNER, ROSE, SPRATT, SCOTT, BUNNING, FUNDERBURK, JONES, GORDON, CLEMENT, CLYBURN, TAYLOR of North Carolina, CHAMBLISS, and WARD.

The purpose of this bill is not to thwart legitimate efforts to curb youth smoking. Everyone knows that minors should not smoke cigarettes or dip snuff. Reducing youth smoking is a goal that is almost universally shared. All 50 States have enacted laws to prohibit youth smoking. And the tobacco industry itself has taken voluntary steps to eliminate the sale of tobacco to minors. On several occasions this year, I have actively encouraged the Clinton administration to work with the industry in expanding voluntary restrictions as an alternative to new and over-reaching regulations.

I have never met a tobacco farmer or warehouse employee who would want their children to smoke cigarettes. They want existing laws enforced, and they want voluntary measures to be given the chance to work.

What they do not want is for the Federal Food and Drug Administration [FDA] to use legitimate public concerns about teen smoking as the pretext for asserting its enormous regulatory jurisdiction over tobacco products.

Mr. Speaker, this bill is simple and straightforward. It simply bars the FDA from proceeding with any regulations governing the sale or marketing of tobacco products. Prohibiting the FDA from moving forward with these proposed regulations is not only consistent with existing law, it will send an important message to every other agency that attempts to issue regulations without express authority from the Congress.

This controversy is not new. In the last Congress, and in the Congress before that, legislation was introduced in the House and Senate to expand the FDA by creating a new regulatory category for tobacco products. Those proposals were rejected. In fact, throughout this century, tobacco's opponents have understood that their best chance to ban tobacco is to give unelected officials of the executive branch regulatory authority over this product. Time and again, such attempts have been rejected.

When Congress has enacted legislation dealing with tobacco, its delegation to the executive branch has been narrow and very specific. The FTC, for example, has carefully drawn duties with respect to assuring that the Surgeon General's warning are placed on cigarettes marketed domestically.

Furthermore, in enacting the Federal Cigarette Labeling and Advertising Act of 1965, Congress declared that the act set up a ''comprehensive Federal program to deal with cigarette labeling and advertising (15 U.S.C. 1331).'' This language suggests strongly that actions not plainly authorized by the act are beyond the powers of the executive branch. It is difficult to understand how the FDA can proceed with new restrictions on tobacco advertising in light of this language.

Even the FDA has acknowledged its inability to regulate tobacco.

Unable to achieve victory in the halls of Congress, tobacco's opponents are now relying on the administrative powers of the executive branch to assert this new and potentially far-reaching authority over tobacco. Tobacco's opponents may celebrate the administration's action on tobacco right now, but they may rue the day when they allowed the executive branch to establish such a precedent.

Just imagine the outcry of tobacco's most vociferous opponents if another President at another time tries to use executive powers to circumvent the expressed will of Congress on such matters as environmental safety, workplace protection, and gender equity. They would cry foul and they would have every right to.

Beyond this important concern about the FDA's legal jurisdiction to act, it is also clear that the administration's proposal runs contrary to the whole focus of government right now. Americans want less government, not more. I find it ironic that as many agencies are downsized and eliminated completely, the administration would seek to expand the scope and mission of the Food and Drug Administration in this manner. Tobacco is already one of the most heavily regulated products in the United States. Regulation begins at the plant bed and runs well beyond the point of sale.

Finally, the FDA needs to re-order its priorities and focus on those issues which Congress has charged it with. We have all heard the reports of the FDA being unable to test and approve life saving drugs in a timely manner. It is an agency that should get its own house in order rather than trying to take on new projects in areas where it clearly lacks jurisdiction.

Mr. Speaker, I am proud to represent more than 5,000 tobacco growers. These hard-working farmers and their families don't want children to smoke. All they want is for Washington to treat them fairly.

The FDA's proposed rulemaking is not fair. It contradicts the plain intent of Congress and is a thinly-veiled attempt to regulate and ultimately destroy domestic tobacco products. I urge my colleagues from both parties and from all regions of the country to join me in sponsoring this important bill.