

<sup>20</sup> See id.

<sup>21</sup> See, e.g., testimony of Saul S. Cohen, Rosenman & Colin, before the Telecommunications and Finance Subcommittee of the House Committee on Commerce at 234-35 (February 10, 1995).

<sup>22</sup> See id.

<sup>23</sup> For this reason, the Conference Report chose not to include in the pleading standard certain language relating to motive, opportunity, or recklessness.

<sup>24</sup> The percentages of damages as market losses in the analysis ranged from 7.9% to 100%. See Princeton Venture Research, Inc., "PVR Analysis, Securities Law Class Actions, Damages as a Percent of Market Losses," June 15, 1993.

<sup>25</sup> See Lev and de Villiers, "Stock Price Crashes and 10b-5 Damages: A Legal, Economic and Policy Analysis," *Stanford Law Review*, 7, 9-11 (1994).

<sup>26</sup> See testimony of Hon. Richard C. Breeden, former Chairman, SEC, before the Securities Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs, April 6, 1995.

<sup>27</sup> See testimony of the National Venture Capital Association before the Securities Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs, March 2, 1995.

<sup>28</sup> See testimony of Hon. J. Carter Beese, former SEC Commissioner, at id.

<sup>29</sup> The concept of a safe harbor for forward-looking statements made under certain conditions is not new. In 1979, the SEC promulgated Rule 175 to provide a safe harbor for certain forward looking statements made with a "reasonable basis" and in "good faith." This safe harbor has not provided companies meaningful protection from litigation. In a February 1995 letter to the SEC, a major pension fund stated: "A major failing of the existing safe harbor is that while it may provide theoretical protection to issuers from liability when disclosing projections, it fails to prevent the threat of frivolous lawsuits that arises every time a legitimate projection is not realized." See February 14, 1995 letter from the California Public Employees' Retirement System to the SEC Courts have also crafted a safe harbor for forward-looking statements or projections accompanied by sufficient cautionary language. The First, Second, Third, Sixth and Ninth Circuits have adopted a version of the "bespoke caution" doctrine. See, e.g., *In re Worlds of Wonder Securities Litigation*, 35 F. 3d 1407 (9th Cir. 1994); *Rubinstein v. Collins*, 20 F. 3d 169 (5th Cir. 1994); *Kline v. First Western Government Securities, Inc.*, 24 F. 3d 480 3d Cir. 1994); *Sinay v. Lamson & Sessions Company*, 948 F.2d 1037 (6th Cir. 1991); *I. Meyer Pincus & Associates v. Oppenheimer & Co., Inc.*, 936 F.2d 759 (2d Cir. 1991); *Romani v. Shearson Lehman Hutton*, 929 F.2d 875 (1st Cir. 1991); *Luce v. Edelstein*, 802 F.2d 49 (2d Cir. 1986); *In re Donald J. Trump Casino*, 7 F.3d 357 (3d Cir. 1993).

<sup>30</sup> See testimony of Hon. Arthur Levitt, Chairman, SEC, before the Telecommunications and Finance Subcommittee of the House Commerce Committee, February 10, 1995.

From the Committee on Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

THOMAS BLILEY,  
BILLY TAUZIN,  
JACK FIELDS,  
CHRIS COX,  
RICHARD F. WHITE,  
ANNA G. ESHOO,

As additional conferees from the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

BILL MCCOLLUM,  
*Managers on the Part of the House.*

ALFONSE D'AMATO,  
PHIL GRAMM,  
ROBERT F. BENNETT,  
ROD GRAMS,  
PETE V. DOMENICI,  
CHRISTOPHER DODD,  
JOHN F. KERRY,

*Managers on the Part of the Senate.*

The SPEAKER pro tempore (Mr. CHRYSLER). Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

[Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

#### CLINTON'S CASE FOR SENDING IN THE TROOPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, there is a remarkable column in today's Washington Times by its gifted editor/writer Wesley Pruden. It is titled "The Macabre Tribute to McNamara's Band." Some of us took to the floor here earlier this month to point out that Robert Strange McNamara was literally in Hanoi all but begging forgiveness and asking for a seminar on Vietnam in Vietnam where he could expiate his guilt on sending 58,700 American men to their death, 8 women, and try and go to his grave with some peace. He did this with Castro, a war criminal, down in Cuba, and now he wants to do it with the war criminals that prevail in Hanoi.

Listen to the opening of Mr. Pruden's column:

The man has no shame, but we knew that, and he is not talking about McNamara. He said:

Bill Clinton, who did everything but to defect to Hanoi to avoid doing his duty to his country 30 years ago, yesterday tried to make a case for sending young men to do their duty in Bosnia, and being Bill Clinton, naturally he cast it as something else. In the afternoon, as an opportunity to immunize little children against childhood disease—this is an extraordinary opportunity, the President said, announcing \$2 million for needles and serum for the children of all of that tragic area of the world.

It says that this man has a problem that others do not. If Mr. Clinton truly loathes the military, and he used that word in his infamous letter to Colonel Holmes that he wrote from England on December 3, 1969, there is no better way to show it than to send upwards of 20, 25; 40 is the better figure, Mr. Speaker, of our loathsome sons to a wintry nonholiday in the mountainous wilds of Bosnia where sniping at Americans or planting land mines under their feet will be the season's sport. Mr. Clinton enlists all the bromides and cliches, many weathered in antiquity, to make his case.

But as I listened to that case last night, Mr. Speaker, Vietnam, the killing fields of Cambodia and the tragedy of Laos kept going through my head. Clinton mentioned in his remarks that Americans will do good things in the face of defending freedom, and he mentioned World War I, which began in Sarajevo, by the way, World War II, Haiti, Iraq, the Middle East, Northern Ireland; he even mentioned Korea, but he studiously dodged paying tribute to the American sacrifices in Vietnam, a sacrifice he acidly scorned in the past, and when asked about Mr. McNamara's disgusting book of self vindication, Clinton told CNN reporter Wolf Blitzer that he, Clinton, felt vindicated by the war criminal McNamara's insidious book.

Mr. Speaker, I am going to do a 1-hour special order tonight. I hope my friends, the gentleman from Indiana [Mr. BURTON] and the gentleman from California [Mr. CUNNINGHAM], who is going to speak after me, will join me.

Here is the problem in the Balkans, and any one of these can be defeated singly. We have threatened and killed Serbs from the air. Now we are going to act as peacekeepers on the ground. We have trained the Croatian Army. I witnessed it myself in August. We have armed the Bosnian military through the airport at Zagreb with Iranian arms. One out of every three airplanes loaded to the gunnels with arms going to the Croats, the other two to the Bosnian Moslems. Now we have conducted peace negotiations, and we claim we are going to see through the indictment of the 53-plus war criminals, all but one a Croat, and he is a Serb, and the Croat is in custody, none of the Serbs are; that we are going to see through the war crimes trials going on at the Hague in the Netherlands. How can we do all of this together unless it is some complicated, incoherent mess that is going to get young American men, and now women. According to the Aspin, Halperin, Clinton plan, women will be going in harm's way, and I will bring to the floor tomorrow night the photograph and cowboy hat, working at home, of Randy Shugart, Medal of Honor winner from the streets of Mogadishu, along with a picture of my dad the day after the war in France with about 20 children. That war that started in Sarajevo, my dad was hit once with shrapnel, twice poison gas with mustard gas.

Mr. Speaker, I question and I want proof that Pope John Paul II, whose advice Clinton has not taken on the sanctity of human life; I doubt he asked Clinton to send our young men to Sarajevo so we would not end this century with a war there. I have a call in to the papal nuncio. I will give you a report on the veracity of that tomorrow night.

#### QUESTIONS ON DEPLOYING U.S. FORCES TO BOSNIA FOR CLINTON

1. What vital U.S. national interests are being threatened in Bosnia?
2. Have all options been used or considered before deploying U.S. forces?
3. Are you willing to extend the U.S. military commitment past one year to achieve success?
4. What do you consider a success in this operation?
5. What are the specific military and political objectives requiring deployment of 20,000? Why not more than 20,000 young American men and women?
6. If the aforementioned objectives change during the course of U.S. deployment, are you willing to provide our military with the adequate resources needed to meet the changed objectives?
7. Should U.S. forces be sent if the American people and Congress do not explicitly support such action?
8. Will it be guaranteed that the operational command of these forces be kept in American and allied hands?
9. Are you willing to ensure that U.S. personnel are always properly armed and