

This determination has been made by Congress, and the courts are not free to substitute their own public policy determinations.

The *Richards* court is not alone in its interpretation of this statutory bar to waiver. In *Leslie v. Lloyd's of London*, a Federal district court, after hearing evidence, struck down the Choice Clauses, stating that they were procured by fraud and violated public policy. The case is currently on appeal to the Fifth Circuit, where the SEC has participated in oral argument, arguing that the Choice Clauses are void.

Mr. Speaker, what is involved here is a very basic proposition. When foreign promoters come into Illinois and other States to raise capital, they cannot effectuate waivers of substantive rights under the securities laws that belong to those from whom they solicit capital. Congress has said no and that should be the end of the story.

INTERNATIONAL DOLPHIN
CONSERVATION PROGRAM ACT

SPEECH OF

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1997

Mr. DELAHUNT. Mr. Speaker, much of the controversy surrounding H.R. 408 concerns the redefinition of the "dolphin safe" label—an issue of particular significance to me and to the residents of the 10th Congressional District of Massachusetts, home of the Center for Coastal Studies in Provincetown, a world-class marine mammal research facility.

One of the reasons I opposed this bill when it was first brought to the House floor was that there is no scientific justification for a change in the dolphin-safe label. Common sense suggests that the repeated harassment and chasing of dolphins jeopardizes their well-being. Along with a number of my colleagues, I wanted to see evidence that chasing and netting dolphins in the course of tuna fishing was safe for dolphins before agreeing to change the definition of the "dolphin safe" label.

The bill before us is a compromise between proponents of an immediate label change and those of us who contend instead that policy should reflect scientific method. The bill mandates a 3-year study on the effect of the intentional chase and encirclement on dolphins and dolphin stocks taken in the course of tuna fishing.

Based on the initial results of this study, the Secretary of Commerce is required to make a finding between March 1 and March 30, 1999, as to whether the intentional chasing and netting is having a significant adverse impact on any depleted dolphin stocks. If the Secretary does not make a finding of significant adverse impact, then the label will be redefined to allow its use on tuna harvested with the encirclement method. At the conclusion of the 3-year study, section (5) requires the Secretary to make a similar finding and if significant adverse impact is found, then the definition would revert back to its current meaning as defined in the Dolphin Protection Consumer Information Act.

Mr. Speaker, the bill does not include a definition of the term "significant adverse impact,"

but it is my understanding that it would include any impact that retards or impedes the recovery of the depleted dolphin stocks. For example, in the recovery of the grey whale, scientists observed population growth rates of between 4 and 6 percent. Similar growth rates are expected in the depleted dolphin stocks. Therefore, if the study shows that the depleted stocks of dolphins are not growing at the expected rates of 4 to 6 percent, I presume the Secretary will be required to make a finding that chase and encirclement is having a significant adverse impact on the dolphins and the label will not change.

The bill is an imperfect attempt to help make certain, above all, that dolphins are not put at unnecessary risk—and that marine mammal policy derives from sound science.

KEEPING AMERICA COMPETITIVE

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1997

Mr. KNOLLENBERG. Mr. Speaker, I rise today to introduce a resolution expressing the sense of the House of Representatives that America not be placed at a competitive disadvantage during the climate change negotiations in Kyoto, Japan in December, 1997.

The Clinton-Gore-Browner administration is notorious for pushing forward far-reaching environmental initiatives without adequately consulting the legislative branch or the scientific community. As you may remember, on September 19, 1996, President Clinton declared 1.7 million acres of Utah wilderness as a national monument without the endorsement of a single elected official from Utah, let alone any legislative action by the U.S. Congress. More recently, the Clinton administration announced radically expensive air quality standards for ozone and the fine particulate matter without any causal proof of their risk to health.

Now it appears that the Clinton administration once again is trying to pull a political end-run. This December, it will represent the United States at an international meeting in Kyoto to discuss revisions to the United Nations Framework Convention on Climate Change. The essence of the meeting is to discuss new compliance mandates to limit and/or reduce the global emission of greenhouse gases.

While the greenhouse effect as a concept has been generally accepted as scientific fact, there are widely varying estimates of humankind's impact on the temperature of the Earth's atmosphere. Therefore, it is impossible to judge what impact, if any, efforts to curb greenhouse gas emissions will have on global warming.

In keeping with this uncertainty, the United States signed the United Nations Framework Convention on Climate Change in 1992, which called on all industrialized nations to adopt policies and programs to limit greenhouse gas emissions on a voluntary basis by the year 2000. In April 1995, the industrialized nations agreed to the Berlin Mandate, which set December 1997 as a target date to establish legally binding commitments from industrialized nations on the emission of greenhouse gas while exempting 129 developing nations, including China, Mexico, India, Brazil, and South Korea, from its provisions.

If taken to its logical conclusion, the Berlin Mandate would create a two-tiered environmental obligation, forcing the entire burden to reduce greenhouse emissions on industrialized nations while turning the developing world into a pollution enterprise zone. This would truly create a "giant sucking sound" of jobs leaving America to the Third World.

It's not too late for the Clinton administration to alter its potentially disastrous policy course. My resolution would express the sense of the House that:

1. The administration will not sign any protocol or agreement to limit or reduce greenhouse gas emissions unless the protocol or agreement also mandates developing countries to limit or reduce greenhouse gas emissions within the same period.

2. The United States will not sign any protocol or agreement regarding global climate change that would result in serious harm to the economy of the United States.

3. Any protocol or agreement which must be sent to the Senate for advice and consent for ratification should:

(a) Be accompanied by a detailed explanation of any legislation or regulatory actions that would be required to implement the protocol or agreement; and

(b) Be accompanied by an analysis of the detailed financial costs and other impacts on the economy of the United States that would be incurred by implementation of the protocol or agreement.

Last week, the other body passed a nearly identical resolution on a vote of 95 to 0. The House should express its will as well, since we would have to consider and pass legislation to remain in compliance with any such treaty.

As the Kyoto Conference draws near, thousands of American jobs are on the chopping block. Any over-reaching and/or inequitable effort to limit the level of CO₂ emissions would be tantamount to pink slips to the American worker. We cannot allow this to happen.

I urge my colleagues to cosponsor this resolution.

IN HONOR OF U.S. DISTRICT
JUDGE CLARKSON S. FISHER, JR.

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1997

Mr. PALLONE. Mr. Speaker, I rise today to pay tribute to the late U.S. District Judge Clarkson S. Fisher, Jr. Judge Fisher passed away on Sunday, July 27, at the age of 76, after battling cancer for the past several months.

Mr. Speaker, the death of Judge Fisher is for me the cause of great personal sadness. I was an intern for Judge Fisher in law school, and he had a major impact on my career. Judge Fisher instilled in me a deep appreciation for how the law can and should be a means for attempting to resolve the real difficulties and conflicts that touch people's lives, and for achieving justice in the very best sense of that word. He was a great inspiration.

Judge Fisher was a native of my hometown of Long Branch, NJ. He was active in local government in the neighboring community of West Long Branch, served in the New Jersey