EXTENSIONS OF REMARKS

INTRODUCTION OF THE CHILDREN'S HEALTH INSURANCE ACCOUNTABILITY ACT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mrs. MORELLA. Mr. Speaker, I rise to introduce the Children's Health Insurance Accountability Act. Children are not ''little adults.'' They have health care needs that often require pediatric expertise to understand, diagnose, and treat correctly.

This legislation recognizes the fundamental fact that children's health and developmental needs are different than those of adults. Children, therefore, should not be left out of the debate on managed care quality and consumer protection, as they so often are.

In fact, the President's Advisory Commission neglected to mention children when it released its original ''Bill of Rights'' last fall. As a result, 121 organizations both nationally and at the local level co-signed a letter to the Commission urging its members not to make the same mistake twice. As a result, the Commission notes in its recently released final report, ''Children have health and developmental needs that are markedly different from adults and require age-appropriate care. Developmental changes, dependency on others, and different patterns of illness and injury require that attention be paid to the unique needs of children in the health system.'' The Commission adds, ''Attention to the quality of health care for children is especially important given their health and developmental needs and their promise for the future.''

Unfortunately, many of the bills that have been introduced in the Congress to address various aspects of health care quality and consumer protection do not incorporate the special needs of children to receive quality care and appropriate care when needed to ensure their healthy development. What does this mean?

Child-friendly health care means allowing families to pick a pediatrician as the child's primary care provider.

Child-friendly health care means providing children access to a pediatric specialist rather than an adult specialist for a life-threatening, disabling or chronic condition.

Child-friendly health care means allowing families to appeal health plans' decisions to someone who understands the care of children, such as a provider with pediatric expertise.

Child-friendly health care means ensuring that plans report information in a manner that is separate for both the adult and child enrollees using measures that are specific to each group. Health care cannot be ''one size fits all.'' Children need ''Straight A'' health plans—plans that address children's specific needs in terms of Access to Care, Appeals, and Accountability.

Organizations endorsing this initiative include: the American Academy of Pediatrics, the National Association of Children's Hospitals, the National Organization of Rare Diseases, the ARC of the United States, Families USA, the Association of Maternal and Child Health Programs, the American Academy of Child and Adolescent Psychiatry, the American College of Emergency Physicians, Families USA, the Children's Defense Fund and the National Mental Health Association.

I share the concerns of a growing number of parents about the quality of their children's health care, and I will work to ensure that managed care recognizes children's unique health needs.

A TRIBUTE TO JOHN J. YOUNG

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. PORTMAN. Mr. Speaker, today I rise to recognize the distinguished career of a friend and constituent, John J. Young, upon his retirement as Executive Director of the Hamilton County Alcohol and Drug Addiction Services Board. The ADAS Board is responsible for planning and coordinating alcohol and drug addiction services in Hamilton County, Ohio.

Mr. Young received his Bachelor of Science degree from Xavier University in 1967, and received his Masters in Education from the University of Cincinnati in 1972. He has been an Advanced Member of the American College of Addiction Treatment Administrators since 1989. Prior to his current executive leadership with the ADAS Board, John served over 20 years managing and delivering alcohol and other drug addiction services in the Greater Cincinnati area.

John was instrumental in the conversion of the former Rollman Psychiatric Institute to the Hamilton County Alcohol and Drug Addiction Services Center. His efforts have resulted in developing the alcohol and drug treatment component of the Hamilton County Drug Court, the first such initiative in the state of Ohio. John is also currently co-chair of the Community Task Force of the Coalition for a Drug Free Greater Cincinnati. He is a member of the Governor's Council on Alcohol and Drug Addiction for the State of Ohio, and is a founding member of Ohio's Federation of Alcohol and Drug Addiction Services Boards.

John has not limited his community involvement to just alcohol and drug addiction services. He is Vice President of the Executive Committee of the Hamilton County Family and Children First Council. He is a member of Leadership Cincinnati, Leadership Ohio, the Cincinnatus Association, and the Hamilton County Corrections Planning Board and the Hamilton County Human Services Planning Board.

John Young has devoted much of his career to serving others in our community, and all of us in Cincinnati thank John for his service and wish him well in his future pursuits.

RECOGNIZING MARIA CONTRERAS

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. KENNEDY of Massachusetts. Mr. Speaker, today I rise to recognize a truly unique individual. Maria Contreras is the founder and coordinator of Soldiers of Health in Roxbury, Massachusetts.

Ms. Contreras, an immigrant from the Dominican Republic, was recognized by the Community Health Leadership Program, supported by The Robert Wood Johnson Foundation, as one of this year's ten outstanding individuals changing the shape of health care in America. Selected from more than 500 candidates from all over the country, Ms. Contreras will receive $100,000 for her work to improve access to health and social services for more than 500 families in the Roxbury, Massachusetts area.

A 23-year resident of the Egleston Square neighborhood, Ms. Contreras watched her neighbors suffer violence, depression, illness and isolation. In 1995, when a 16-month old infant was injured in a drive-by shooting, Contreras refused to stand by and watch. She began a dialogue, talking to kids on street corners and meeting with tired parents, frightened neighbors and frustrated police.

Ms. Contreras' attempts at bringing neighbors together were initially met with finding a door slammed in her face. She is an effective advocate. After getting to know many of the youth-at-risk, Ms. Contreras listened to what they had to say and came up with realistic alternatives to hanging out on street corners such as after school tutoring programs, enrollment in GED courses, part and full-time jobs and week-long hiking trips.

In 1996, Ms. Contreras' launched Soldiers of Health, a neighbor-to-neighbor outreach program that addresses the violence, poor health and substandard living conditions by reconnecting people-in-need to available services. Currently, 14 soldiers who live in Egleston Square spend 22 hours each month walking their assigned streets, meeting as many people as possible. They pay attention to the health concerns of the elderly and get to know the kids hanging on the corner. Over time, they break down barriers to link people together whether it is helping them access the medical assistance they need or getting the education that's necessary to move beyond the corner and into a job.

Mr. Speaker, I want to congratulate and thank Maria Contreras for her dedication and work in making Roxbury a better place and a model for tomorrow.

CONGRATULATIONS TO MACIE HANRAHAN

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. CALVERT. Mr. Speaker, I rise today to congratulate and commend a young lady from my district who has brought pride and honor to her family, friends and school. Macie Hanrahan, a student at Raney Intermediate School in Corona, California, won first place in the junior division individual performance category at National History Day.

National History Day is an annual competition in which students research and learn about events in history. Competitions are held at the district, state and national levels and are judged by historians and educators. Students present their historical findings in papers, exhibits, performances and media presentations. The theme of this year's event was ''Migrations in History: People, Ideas, Cultures.''

As an American of Irish descent, Macie chose Irish Migration of the 1840's as her topic, with a performance entitled ''Deori! Forced From Erin's Soil.'' In her performance, she used the voices of three girls from Ireland, England and America to show differing perspectives of the Irish potato famine, the forced migration that followed, and the experiences that people of different cultures went through during this time in history. To win this event, Macie conducted exhaustive research, including using the National Archives, the Library of Congress, U.S. and Irish Census Records, and original diaries, letters and newspapers of the time.

On behalf of the residents of the 43rd congressional district of California, I congratulate Macie for her hard work and a job well done and wish her continued success in all of her future endeavors.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

SPEECH OF

HON. MICHAEL D. CRAPO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes:

Mr. CRAPO. Mr. Chairman, I rise to express my strong opposition to the Foley-Miller-Markey-Kucinich-Sanders amendment to eliminate funding for the Depart of Energy's (DOE) Nuclear Energy Research Initiative (NERI).

As you know, NERI is the only new nuclear research and development program funded in the FY 1999 Energy and Water Development Appropriations Bill. This new program, which is supported by the President's Committee of Advisors on Science and Technology, will support long-term research in advanced nuclear technologies, such as proliferation-resistant reactor and fuel technologies and high efficiency reactor concepts. This competitive, peer-reviewed grants program will support the best ideas from the United States nuclear industry, universities, and national laboratories. In addition, NERI will help maintain the United States' leadership and expertise in advanced energy technologies.

NERI enjoys strong support from the nuclear industry, universities, and DOE national laboratories. My home state of Idaho is privileged to have some of the most talented nuclear scientists and researchers in the world at the Idaho National Engineering and Environmental Laboratory and at Argonne National Laboratory-West. NERI will permit these world-class scientists and engineers the opportunity to advance nuclear science and engineering well into the next century. If the United States expects to be considered a world leader in nuclear science and technology, it must fund programs like NERI that advance our knowledge in nuclear science and technology.

Mr. Speaker, I urge my colleagues to vote against the amendment.

TRIBUTE TO THE HONORABLE JOHN W.H. BASSETT

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise to pay tribute today to the late John Bassett, a great Canadian and a great friend of the United States.

John Bassett was one of those unique individuals who not only witnessed the great events of our century but who truly helped shape them.

He served with gallantry in World War II, was a broadcast media pioneer, supported the creation of Israel, ushered in the modern sports era, and was a friend to Presidents and Prime Ministers, columnists and news anchors, quarterbacks and hockey centers.

When John died last month, Canada lost an honored citizen and the United States a distinguished ally. And the Kennedy family lost a great friend.

When I was a young boy, Toronto Maple Leaf pucks were always rolling around our house at Hickory Hill and then in the Oval Office when we visited my uncle Jack there. John Bassett made every Kennedy a fan of his Maple Leafs—and under his ownership in those years, the Toronto team won three consecutive Stanley Cups in the National Hockey League.

He built the Canadian Football League as well by signing a young Joe Theisman out of Notre Dame to quarterback his Toronto Argonauts Football Team. His sports empire grew to include the Birmingham Bulls of the World Hockey League and the Tampa Bay Bandits of the United States Football League, which fielded gridiron greats Steve Spurrier, Larry Csonka, Jim Kiick, and Paul Warfield.

But John Bassett didn't just have an eye for sports talent—he had a genius for marketing it. He bought newspapers and television stations, and used them to turn athletes into celebrities.

His string of newspapers included the Sherbrooke Daily Record, a small paper being published in the Eastern Provinces of Quebec; and the Toronto Telegram, one of Canada's leading dailies up until its demise in 1971. He made sure the Telegram lived on by turning over its newspaper boxes and news library to the Toronto Sun, getting that paper on the newsstands just two days after the Telegram ceased publishing.

In 1960, at the dawn of the modern media age, John founded the television station CFTO–TV in Toronto under the umbrella of Baton Broadcasting. Under his direction, and now that of his son and my good friend Doug Bassett, Baton has become the largest private television broadcasting company in Canada—the owners of 20 TV stations, three national cable channels, and Canada's only private national television network, CTV.

As you might expect, John Bassett the media mogul and sports czar always felt right at home with anyone. I remember my mother describing John sitting at ease aboard Lord Beaverbrook's yacht—five crew member serving each guest, the sleek hull so long it made Rupert Murdoch's boat look like a bathtub.

But she also recalls his great laugh and good spirit sailing in a one-master off the coast of Maine with Robert and Ethel or John and his young bridge Jackie—with nothing more than a picnic lunch and a cooler swung over the gunwales.

Like all great men, John had a great heart, and gave generously of his time to great causes. He was personal friends with the founders of modern Israel—David Ben Gurion, Golda Meir, Moshe Dayan and Menachem Begin. He worked tirelessly to support the young state, and became the first non-Jew honored by the Jewish National Fund of Canada for his selfless work.

And after my father's death, John and his family showed great kindness to my family by establishing the Robert F. Kennedy Memorial in Canada, which continues to thrive under the generous leadership of the Bassett family.

While lucky in sports, John wasn't so lucky in politics, twice running for Parliament without success. But typical of John Bassett, he found other ways to serve. In 1989, Prime Minister Brian Mulroney appointed him Chairman of the Security Intelligence Review Committee, the watchdog group for the national security service. he also served as a Privy Councillor of Canada.

In recognition of his career in business, media, sports, and civil and political affairs, John Bassett has received both his country's highest honor, the Companion of the Order of Canada, and the highest honor of his home province, the Order of Ontario.

John Bassett will be missed by many, but especially by his family. My heart goes out to Isabel and Doug and all the Bassett children, grandchildren, and great-grandchildren—indeed to every member of the extended Bassett family who felt the great sweep of his extraordinary life.

John Bassett's life was epic in scope but intensely human in the kindness he showed to everyone along the way. Canada has lost a great citizen, and we've all lost a great friend.

PERSONAL EXPLANATION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. OWENS. Mr. Speaker, I was detained yesterday and missed the following rollcall votes. Had I been present, I would have voted in the following manner:

H. Con. Res. 228, Money Laundering Investigations in Mexico, rollcall no. 255 ''yea''.

H. Res. 451, Oppose Increase in Postal Rates, rollcall no. 256 ''yea''.

H.R. 4059, Military Construction Appropriations for FY 1999, rollcall no. 254 ''yea''.

H.R. 4060, Energy and Water Development Appropriations for FY 1999, rollcall no. 253 ''yea''.

Amendments to H.R. 4060 by Rep. Foley to eliminate the bill's $5 million in funding for the Energy Department's Nuclear Energy Research Initiative, rollcall no. 252 ''nay''.

CONGRATULATIONS TO SARA BONILLA

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. RIGGS. Mr. Speaker, Sara Bonilla was born in the small town of Cartago, Costa Rica on May 15, 1956. She is the proud mother of three sons, Fabian Martinez, Juan Carlos and Reuben Augusto, who reside in Batann, Limon, Costa Rica. In 1989, Sara came to the United States to live with relatives in Los Angeles, California.

Since Sara arrived in the United States, she has worked very hard at many different jobs, oftentimes two at a time, to assist her family in Costa Rica. Sara enrolled in and completed classes in both English and computers at a local college. One of the biggest highlights in her life—as well as a big step in her independence—was when she received her driver's license and purchased a used automobile.

Over the years, Sara has constantly sought to improve her English proficiency and her job skills. Today, after ten years, Sara is reaching her goal. Today, at the Masonic Auditorium in San Francisco, California, Sara Bonilla will be sworn in as a citizen of the United States. I offer Sara my congratulations, from one American to another.

INTRODUCTION OF THE SOCIAL SECURITY RESOLUTION

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. NADLER. Mr. Speaker, today, I am proud to introduce House Resolution 483 regarding strengthening of the Social Security system. I am pleased that this resolution has 59 original cosponsors and has been endorsed by 14 national organizations representing millions of Americans.

This is a very important day for Social Security. It marks the true beginning of our national debate about the privatization of this great social insurance program.

I say the true beginning because, until today, the Social Security debate has been one-sided and has shut out the voice of the American people. For too many months, there has been a growing consensus in Washington that privatization—substitution private individual accounts for all or part of Social Security—is a done deal, that economists think it's the only way to go, that young people are clamoring for private accounts, and that Americans in general want it.

This is simply not true. There is no wellspring of public support for privatizing Social Security, there is merely a wellspring of expensive public relations creating the illusion of public support. Today, I am introducing a resolution into the House opposing the creation of private accounts as a substitute for Social Security. This resolution has 59 original co-sponsors and the initial endorsements of national advocacy groups representing Americans of all ages and all walks of life. Together, these initial endorsers represent tens of millions of Americans who are opposed to wrecking the promise of Social Security by privatizing it. Together, I believe this alliance represents the true sense of the American people: that privatizing Social Security is a bad idea and is unnecessary. The early support for this resolution, still in its early stages, should make us question the myth that there is massive public support for partially replacing Social Security with private accounts.

The introduction of this resolution also debunks the myth that there is overwhelming Congressional support for privatization. Fifty-nine Members of Congress, so far, have endorsed this resolution, more than have spoken out in favor of private accounts in general.

This resolution also debunks the well-financed myth that Social Security is in a state of grave crisis. As this year's Trustee report tells us, Social Security—at the very worst—faces a manageable gap of 2.19 percent of taxable payroll. This gap can be closed without reducing Social Security benefits, without raising the retirement age, without forcing individuals to put their retirement income at risk through individual private accounts, and without raising tax rates. This 2.19 percent is not only manageable, but it is quite possibly overstated by the Trustees, who, out of fiduciary caution, use economic assumptions that have been described as extremely pessimistic by leading economists. Let me state it clearly—Social Security is not going bankrupt; Social Security faces a manageable gap which can be closed without dismantling the basic insurance functions it provides.

Finally, I would like to express my hope that the introduction of this resolution will spark a more realistic analysis of privatization. With few exceptions, the creation of private accounts has been presented as a panacea for Social Security's troubles. This view is baffling to many of us in that it overlooks obvious problems with using private stock market accounts as a substitute for Social Security. For example:

The creation of private accounts doesn't account for the millions of children, disabled workers, and widowed spouses who collect disability and survivors' benefits from Social Security;

The switch from a self-funded social program to private accounts will cost Americans many billions of dollars, a transition cost that will hurt the youngest workers the worst;

Individual private accounts fail to protect individuals from severe downturns in the market; and

Even a system of individual private accounts that enjoys a good average return on investment means that millions of Americans whose investment perform below average will be thrust into poverty.

Social Security is not just a retirement program. Social Security is a national insurance program which, for a remarkably low premium, protects Americans from economic misfortune at every stage of our lives. Even at the best of times, people need insurance, and it is vital that we protect Social Security and preserve its current structure. It is my hope that this resolution will help clarify the public debate and move us in that direction.

TRIBUTE TO CATHY FROST

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Fresno Businesswoman Cathy Frost, owner of Bennett Frost Personnel Services, for her efforts and success in the business arena. Cathy Frost's business has grown to be one of the most successful and thriving personnel services in Fresno.

Cathy Frost was born in Selma, California in 1946. She is married to Robert Frost and has two children, Brian and Kevin. Cathy Frost received a Bachelor of Arts degree from San Jose State College.

Bennett Frost Personnel Services is a successful business that began with only three employees and has now grown to 19. Mrs. Frost's interest in making a difference in the community has landed her the distinction of becoming the first woman president of the Fresno Metropolitan Museum. Other activities include serving as the vice-chair of the New United Way campaign and chair of the search committee for an executive director for the same organization. Cathy Frost is also a member of The Business Council, the Human Resource Association and the YMCA search committee for an executive director.

Mr. Speaker, it is with great honor that I pay tribute to Cathy Frost for her efforts and success in the business arena. It is the leadership and care exhibited by Mrs. Frost that should serve as a role model for business owners all over America. I ask my colleagues to join me in wishing Cathy Frost many years of success.

PERSONAL EXPLANATION

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. PORTMAN. Mr. Speaker, a town meeting in my district that was scheduled at a time when the House was not expected to be in session prevented me from being here for yesterday's vote on H.R. 4060, the FY 1999 Energy and Water Development Appropriations bill. I strongly support H.R. 4060. Had I been present, I would have voted YES.

This bill contains $275,347,000 for the Fernald Environmental Management Project (FEMP), which is based in my Congressional District near Cincinnati, Ohio. The former Fernald Feed Materials Production Center, now the FEMP, was a Department of Energy facility that was part of the United States' nuclear weapons production complex for nearly forty years from 1951 to 1988. The site is heavily contaminated with nuclear waste and other hazardous materials, and has been the focus of extensive cleanup efforts for several years.

H.R. 4060 fully funds the President's request for the Fernald cleanup under the Defense Facilities Closure Account. The Closure Account is designed to ensure the accelerated cleanup of this site under budget and ahead of the original schedule. Accelerated cleanup will not only result in a considerable savings to the taxpayers but also help to protect public health. I would like to point to a disturbing study recently released by the Center for Disease Control that estimates a 1 to 12 percent increase in lung cancer deaths to residents in the Fernald study area as a result of exposure to radon gas emitted from the site's K–65 Silos. The CDC's findings serve to emphasize the need to fully fund the Closure Account, which would ensure that the accelerated cleanup proceeds on schedule to safeguard the residents in the community from future radioactive exposure.

Mr. Speaker, I believe this funding for the FEMP strongly serves the public interest. I commend Chairman LIVINGSTON, Ranking Member OBEY, Chairman MCDADE, and Ranking Member FAZIO as well as their colleagues on the Appropriations Committee and the Energy and Water Development Subcommittee for including these vital funds in the bill. I also want to thank the House for overwhelmingly approving H.R. 4060 by a vote of 405–4.

HONORING THE 125TH ANNIVERSARY OF JONESFIELD TOWNSHIP

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. CAMP. Mr. Speaker, it is with great pride that I rise to recognize a distinguished Township in Mid-Michigan as it celebrates its 125th Anniversary. Chartered in 1873, Jonesfield Township was originally known as Green—named after the owner of a local lumber mill. Now a 125 years later, Jonesfield Township has grown and prospered around the quiet community of Merrill. Jonesfield is named after one of its earliest settling families, the Jones' which happened to stumble upon the community after taking the wrong road in the attempt to settle in the area surrounding Grand Rapids.

Jonesfield Township and the community of Merrill are known for the closeness of the residents and their friendly community spirit. Its residents classify the area as a quiet farming community. Today, as the community celebrates its 125th Anniversary it recognizes the excellence of the churches, schools, fire department, and farm families that have help development Jonesfield Township into a thriving community. It is the hard work and dedication of many generations that built this community.

This weekend the Jonesfield Township will reflect on its past and the residents can be very proud of their history and growth over the past 125 years. On Saturday, as the citizens of Jonesfield Township reflect on their past—they can be proud of how their community started and where it is today. It is a special, caring community that has grown without sacrificing their special heritage.

SALUTING THE RIGHT TO ORGANIZE INTO LABOR UNIONS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. KUCINICH. Mr. Speaker, today I rise to salute one of our most cherished rights as Americans: the right of working people to bank together and organize into labor unions to achieve higher wages and better working conditions.

When people first go to work for a non-union employer, they do so as individuals. Often times, they are not familiar with the specific conditions of work at their workplace. Sometimes those conditions are acceptable, and provide the sort of income that can support them and their families. But, too often those conditions are substandard and the wages are insufficient. In this situation, workers discover that they have many interests in common. They find that by joining together they can begin to work out responses and solutions to the problems that they face in the workplace. And they find that organizing into a labor union is their best vehicle to better treatment, improvements in working conditions, and expand respect on the job.

Since the massive organizing drives of the 1930s, unions have come to play an important role in American society. Unions contribute to the stability of our economy by helping to ensure that working people have the income to purchase the products and services of industry. Unions give workers a voice on the job. Unions help to close the wage gap between men and women. And unions help to uphold fairness and equality of opportunity for all their members in the workplace.

Unfortunately, the right to organize is increasingly under attack. Millions of workers would decide to join a union if they could be assured that they would not be punished for making that decision. Instead, workers who express their pro-union sympathies are routinely harassed, forced to undergo closed-door meeting with employers, and even fired.

In my own district on the west side of Cleveland, the right to organize is not safe. For example, a company with $80 million in sales pays its workers at starting wage of $6.25 per hour, barely above the minimum wage. This is a company that received a tax abatement from the City of Cleveland to construct a new building. The company's sales have been growing, but that growth has not translated into higher wages and benefits, or better working conditions. Most employees support themselves and their families on weekly paychecks of less than $200. Retiring employees do not have a pension plan they an count on. Safety conditions are terrible. Employees have lost fingers and, in one case, an arm. When fires have broken out in the plant, employees have been required to continue work.

Faced with these low wages and dangerous conditions, these workers turned to the Union of Needletrades, Industrial and Textile Employees—UNITE. After workers contacted UNITE, 60 percent of them signed cards saying that they wanted the union to represent them. A petition for election has been filed with the National Labor Relations Board. Yet in the first two weeks of the union's organizing campaign, the following has happened: the employer has held captive audience meetings to frighten the workers; the company has threatened to close the factory completely; and the company has intimidated vocal union supporters by issuing written warnings against them, some for work offenses that occurred months earlier. The union predicts that this anti-union campaign will continue and become more intense in the next six weeks before the union election.

I wish I could report this sort of behavior is unusual. But often this is typical action by employers to block the right to organize by any means necessary. This sort of behavior is shameful. It is turning the clock back to the 19th Century, when workers had few rights.

To guarantee the stability and prosperity of our democratic society, workers must have the right to choose—freely and openly—whether to join together with their fellow workers and select the union of their choice. I urge my colleague to stand up and declare that:

Workers have the right to organize;

People have a right to a job . . . at fair wages with decent benefit;

Workers have a right to a safe workplace . . . and a right to compensation if they are injured;

People have a right to decent health care; and

People have a right to participate in the political process.

The foundation for all of these rights is the right to organize. To all those workers and employees who are fighting to exercise that right to organize, I salute you. Your struggle is difficult and painful, but you are proceeding in the finest traditions of our American history.

A TRIBUTE TO CLARK BURRUS, VICE CHAIRMAN, FIRST CHICAGO CAPITAL MARKETS, INC.

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. LIPINSKI. Mr. Speaker, I pay tribute to an outstanding leader and businessman, Mr. Clark Burrus, Vice Chairman of First Chicago Capital Markets, Inc., who was recently honored by the First National Bank of Chicago.

Mr. Burrus has served the First National Bank of Chicago for nearly twenty years, constantly contributing his innovative ideas and valuable insight. Before joining The First National Bank of Chicago, Mr. Burrus served the city of Chicago under Mayors Martin Kennelley, Richard J. Daley, Michael Bilandic, and Jane Byrne. Mr. Burrus was chairman of the Transition Committee on Finance for Mayor Harold Washington and co-chaired Mayor Byrne's Pension Study Commission. Starting in 1975, I had the pleasure of working with Mr. Burrus, while I was an Alderman and he was City Comptroller. It was always a

pleasure to work with Mr. Burrus, as he consistently served the city in an unassuming, unselfish, and effective manner.

Mr. Burrus continues to dedicate his time, expertise, and leadership to his community. He serves on various boards and commissions including several health care boards, higher education committees, as well as metropolitan planning councils. He was the past chairman and treasurer of the Chicago Unit Board of Directors of the American Cancer Society. Mr. Burrus is also a current member and past Chairman of the Chicago Transit Authority.

Mr. Speaker, I commend Mr. Clark Burrus for the valuable leadership and knowledge he has contributed to his workplace and community. I would like to extend my best wishes for many more years of service to his community.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

SPEECH OF

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment, and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes:

Mr. HOYER. Mr. Chairman, I rise in support of this bill and would like to commend the work of both the Chairman, Mr. PACKARD, and the Ranking Member, Mr. HEFNER. Further, I would like to express my sincere appreciation for the work and friendship of Mr. HEFNER. He is truly one of our finest members and it has been my distinct honor to have served with him in this body. The Committee has done an outstanding job in crafting a bill which addresses both the military needs and quality of life concerns for the men and women in our armed services. Make no mistake, our military personnel deserve the best that we in Congress can offer, and this bill takes many of the necessary steps required to improve the quality of life for our military families. The focus this bill places on family housing, child development centers, medical facilities and treatment centers is critical if we are going to continually recruit and retain our best people. While this bill does not meet every deficiency in our military facilities, it continues the approach of budgeting for the highest priority needs of our armed services. Additionally, I believe it represents a firm commitment by this Congress to our men and women in uniform to continue our efforts to improve their living and working conditions.

Further, I would like to express my appreciation to the Committee for their quick response to fund the Continuous Processing Facility at Indian Head. As many of you know, an accidental explosion damaged a portion of this building in February. Although my funding request was unexpected, the Committee responded to this priority by providing funds for a facility which in the long run will be more efficient and flexible in meeting the Defense Department's energetics requirements. Lastly, I would like to thank the Committee for supporting the Administration's request for the replacement of the Annealing Ovens Facility at Indian Head. This new facility will function in a more efficient fashion and address important environmental concerns in my district. Again, I thank the Chairman and Ranking Member, and I urge my colleagues to support this bill.

''DAY TO MAKE OUR VOICES HEARD''

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. VISCLOSKY. Mr. Speaker, I rise today to talk about the critical importance of union organizing in protecting working families. ''The Day To Make Our Voices Heard'' campaign highlights successful organizing drives and shows how they improve workers' standards of living and working conditions. The campaign focuses public attention on the many obstacles workers face in exercising their right to union representation. This week's events are especially important in building coalitions among workers, union leaders, as well as political and community leaders—coalitions that will hold up the example of responsible employers and build public pressure against employers who trample the right of their workers to organize.

In Northwest Indiana—the region I represent—and throughout our country, the opportunity to join a union means a guarantee that workers share in the benefits of increased productivity. The ability to join a union means that you will earn an average 34 percent more than a nonunion worker. The ability to join a union means that you are more likely to receive health benefits from your employer and higher quality benefits that will protect your family members in the case of a serious illness. The ability to join a union means that you are more likely to have a decent pension that will provide you and your spouse with a secure retirement. The ability to join a union means that you will have a greater say in how your workplace is run, which will lead to a safer and more productive workplace.

And what has protecting workers' ability to join unions meant to our country? Over the past century, America's unions have helped build the largest middle class in the history of the world. As we move into the next century, good union jobs will continue to be essential to building and maintaining communities that are strong both economically and socially.

Now you would think that the Congress would be doing everything it could to protect workers right to union representation. Sadly, that is not the case. Just this March, the Republican majority in the House pushed through legislation that would overturn a unanimous 1995 Supreme Court decision recognizing the right of all workers to seek employment, regardless of their membership in a union or their support for union representation in their new workplace. And every year, we see attempts in the Congress to cut funding for the National Labor Relations Board—the federal agency responsible for preventing unfair labor practices by employers and unions.

Mr. Speaker, it is high time that Members of the House make our voices heard in support of union organizing efforts across the country. We owe this—higher wages, better benefits, safer workplaces—and much more to the working men and women of America.

A TRIBUTE TO MEGAN JOHNSTON-COX & IRENE SORENSON

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine achievement of Megan Johnston-Cox, an eighth grade student from Home Street Middle School in Bishop, California. Megan was a recent competitor in the National History Day Competition (June 14–18) at the University of Maryland. The competition, sponsored by the Constitutional Rights Foundation, involved students from across the United States who submitted essays on this year's theme: ''Migration in History: People, Cultures, and Ideas.'' In fact, Megan's project was selected for display at the National Archives branch office near the University of Maryland on June 17.

Megan qualified for the national competition by first winning California State History Day competitions at both the county and state levels. Her essay, entitled ''Farm to Factory: The Migration of Yankee Women,'' traced the migration of women from the farms to the textile mills in Lowell, Massachusetts. Megan also researched the impact and development of the textile industry in the United States.

Megan's outstanding accomplishments were undoubtedly guided by the leadership of her teacher, Mrs. Irene Sorenson. Irene is a past winner of the Richard Farrell Award from the Constitutional Rights Foundation which recognized her as the National History Day Teacher of Merit in 1995. Also in 1995, Irene sent another student, Will Baylies, to the National History Day competition. Clearly, the dedication of young students such as Megan and Will, and the guidance of teachers like Irene Sorenson, make our public school system the finest in the world.

Mr. Speaker, I ask that you join me and our colleagues in recognizing Megan Johnston-Cox for her fine accomplishment. To say the least, her fine work is admired by all of us. I'd also like to commend Irene Sorenson for her fine leadership and her devotion to such remarkable educational standards. Students like Megan and instructors like Irene set a fine example for us all and it is only appropriate that the House pay tribute to them both today.

HONORING VIRGILIO AND ANGELA BORRELLI

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. ENGEL. Mr. Speaker, Virgilio and Angela Borrelli are celebrating fifty years of marriage. These two marvelous people met before Virgilio went off to serve his country in World War II. He returned in 1946 and began his courtship of Angela and on March 14, 1948 they were married in Saint Anthony's Church in Yonkers, New York.

Angela has been active in the Yonkers Aquahung Women's Democratic Club as well as doing extensive charity work. Virgilio was born in Malito in southern Italy in 1923 and came to America in 1937. He is president of a construction firm and has involved himself extensively in the community. He is a founding member of the Italian City Club. His name is on ''The Wall'' at Ellis Island.

They and their three children, Sam, Yvonne, and Margaret Angeletti, and five grandchildren, are celebrating this grand occasion. I join all who believe in love in congratulating them for fifty years together.

IN SUPPORT OF A ''DAY TO MAKE OUR VOICES HEARD''

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. MILLER of California. Mr. Speaker, I rise to express my support for the working men and women in unions around the country who will showcase their ambitions, visions, successes and heartaches in what is being called a ''Day to Make our Voices Heard.''

We should be proud of their efforts to create unions to give a voice to their aspirations. These men and women embody the democratic ideal. They have joined together to help create better working conditions for themselves and for all Americans.

Unfortunately, the limited rights that workers currently enjoy do not protect them from unfair and uncivil treatment by some employees. And even these limited rights are under attack by the Republican majority.

Let me give you an example from my district of the unfair actions that some employers will take against employees that have joined together to form a union.

One hundred and one workers at Pacific Rail Services, an intermodal yard in Richmond, California, overwhelming voted to join the International Longshore and Warehouse Union last September. The Union negotiated an agreement with Pacific Rail Services, which included wage and benefit increases. But just before it was officially signed, Burlington Northern/Sante Fe pulled the contract from Pacific Rail Services and gave it to another company. All 101 of the newly organized workers at Pacific Rail Services were thrown out on March 15 and a new, non-union workforce brought in.

Despite outrageous acts such as this one, the Republican majority is determined to weaken even further the right of employees to organize and advocate on their own behalf. The majority has already passed a bill through the House to give employers the power to hire and fire workers based solely on their support for union representation.

This so called ''Fairness for Small Business and Employees Act of 1998'' would undermine one of the most basic rights, the right to freedom of association. The bill permits employees to discriminate against workers on the basis of the workers' union support. It would permit, even encourage, employers to interrogate applicants on their preference for union representation and to refuse to hire an application on this basis.

Attacks like these make ''A Day to Make Our Voices Heard'' even more important. They remind us that we should be strengthening, not weakening, the rights of employees to ensure they receive fair and timely resolution of their concerns. I join my colleagues in applauding the efforts of workers all across the country to publicize the strong contributions unions make to a productive and civil workplace and highlight unfair business practices, and to bolster the efforts to those of us in Congress to protect workers' rights.

THE RIGHT TO ORGANIZE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. MENENDEZ. Mr. Speaker, only a short time ago at the turn of this century workers faced sweatshops, low wages, no benefits, and unsafe work places—conditions highlighted in books from the period like Upton Sinclair's, The Jungle. These books weren't simply fiction because they described the very real conditions that existed at the time. It's not a period to which I want to return.

Unions played an enormous role in improving these deplorable conditions of the past. But today unions are fighting for their very existence. In our country, as unions have declined, the gap between rich and poor has widened. By attacking unions, the Republicans have been working overtime to return to a past where unions didn't exist but the conditions unions sought to improve did.

Since coming to Congress I've seen labor unions come under attack from all sides: Efforts to repeal Davis-Bacon, pushing down the prevailing wage; decimating OSHA, putting workers' safety at risk; and stalling efforts to raise the minimum wage. That's the climate in Washington.

In spite of these attacks, America's workers still seek to form and join unions. Why? Unions promote the rights of workers, they endorse affirmative action, and they work to close unjustified wage gaps for women and minorities. That's what unions do for American workers.

Mr. Speaker, today's climate is not hospitable to working Americans who wish to organize. There have been documented examples of companies carrying on campaigns to keep their workers from organizing. They've used illegal threats, refusals to promote, illegal warnings, illegal work rules, illegal interrogations, and even illegal surveillance to force workers not to organize.

We can't turn a blind eye to these disturbing practices that workers seeking to organize face everyday. Unfortunately, back-handed tactics and intimidation go a long way to discourage working men and women from organizing. And that's what opponents of unions bank on. These are some of the harshest attacks possible on working Americans and their rights. They're attacks on entities which provide working men and women with the opportunity to improve their lives, their living standards, communities, and companies.

The fact is that not only do union workers earn an average of 33 percent more than non-union workers, but they also are much more likely to have stronger health and pension benefits. We need to let workers know that unions and their members will be there to strongly support the efforts of those who seek to organize. Labor unions help all working Americans—organized or not. That's why tomorrow's ''Day to Make Our Voices Heard'' events are so important.

Working men and women built this country, and the labor movement's struggle is their struggle. That struggle never ends and must never be taken for granted. The long uphill climb from the turn of this century could be rolled back by an avalanche of Republican anti-worker ploys. Let's bring back freedom of assembly and freedom of speech to the workplace. Let's respect working Americans' free choice when they seek to organize.

IN MEMORY OF REV. ROBERT JOSEPH STEVENS

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. HASTINGS of Florida. Mr. Speaker, it is with great sadness and regret that I must rise today to inform the House that the Rev. Robert J. Stevens recently passed away.

Mr. Speaker, Rev. Stevens was a good friend. And, though he has passed, I want to take this opportunity to stand before you today in order to recognize his remarkable career.

As some of you may know, Rev. Stevens spent most of his career serving as one of South Florida's finest morticians. With sensitivity and compassion, Rev. Stevens worked to comfort mourners during what is always a very difficult time in a person's life.

Rev. Stevens graduated from Palm Beach County's Roosevelt Senior High School in 1958. Furthermore, he completed advanced studies at McAllister College of Embalming in New York and North Carolina A & T University. He returned to South Florida to enter into the Stevens Bros. Funeral Home family business in 1973, where he worked until his death several weeks ago.

Rev. Stevens always believed that his greatest achievement was being called into the Ministry to preach the word of God. He was the founder and pastor of New Christ Missionary Baptist Church in West Palm Beach.

In addition to Rev. Stevens' work in his church and funeral home business, he was an active leader of the Florida State Morticians Association, the National Funeral Directors and Morticians Association, and the Masons. His extraordinary work on behalf of these organizations will continue to preserve his memory, well into the future.

The passing of Rev. Stevens is a difficult one for me personally. However, Mr. Speaker, I know that he will be missed even more by the people of South Florida. He was there for them as a pastor and as a friend. He will surely be missed.

A TRIBUTE TO MAYOR ELIHU HARRIS

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Ms. LEE. Mr. Speaker, Mayor Elihu Harris of Oakland has served the public for twenty-

one years as an elected official at both the state and municipal levels. For thirteen years, Mr. Harris served as a California State Assemblyman; over the course of his tenure, he served as Chairman of the Joint Legislative Audit Committee and the Jurisdictional Committee, and sponsored many pieces of legislation that have had a direct impact on the City of Oakland and its citizens.

For the past eight years, Mr. Harris has served as the Mayor of the City of Oakland, leading the drive to rebuild and strengthen our great City. In the wake of the 1989 Loma Prieta earthquake and the 1991 Oakland Hills firestorm—two of the most devastating events in recent city history—among other significant challenges, Harris has provided invaluable leadership and vision, and levied resources to support redevelopment, growth, and community in Oakland.

The Mayor's campaign to renew the City of Oakland has proved highly successful: in 1993, Oakland was designated an All American City by the National Civic League, and Money Magazine has ranked Oakland as one of the top places to live for two consecutive years. Under Harris' watch, crime rates and unemployment have dropped, and the City has experienced a tremendous influx of new business, construction, and jobs.

Equally important is Mr. Harris' record as the People's Champion. Throughout his term, Mayor Harris has worked closely with Oakland's citizens to create new and innovative ways to address important community issues. By providing strong leadership in an atmosphere of inclusiveness, Mr. Harris has mobilized people to believe that they can and will make a difference. A true Citizen-Mayor, Elihu Harris is especially passionate about children and about education: while serving as Oakland's mayor, he launched several important endeavors to support education, among them Camp Read-A-Lot and Project 2000, Ready to Learn.

On June 26, 1998, Mayor Harris will receive an Achievement Award from the Oakland East Bay Democratic Club. The 9th District joins the Oakland East Bay Democratic Club in honoring Mayor Elihu Harris for his years of dedicated service to our community.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

SPEECH OF

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purpose:

Mr. DAVIS of Florida. Mr. Chairman, I rise in support of H.R. 4060, the Fiscal Year 1999 Energy and Water Development Appropriations Bill. Given the limited resources available to the Committee in this era of increasingly tight budgets, this legislation is a balanced bill which represents a bipartisan effort to meet the important energy and water development needs of our Nation.

One area in which I must express concern and disappointment, however, is the funding for the critically important Everglades restoration projects. During last year's historic balanced budget agreement, Everglades funding was held up as one of the few protected domestic discretionary spending priorities. Unfortunately, just one year later, this legislation is unable to meet the critical needs of this restoration effort.

The Everglades National Park is truly one of our Nation's natural treasurers and provides tremendous resources which are vital to the environmental health and quality of life in the State of Florida. While we have made great progress in raising awareness of the fragile nature of this diverse ecosystem, much work remains to be done to restore and protect the park for this and future generations.

My hope is that as we move this process forward and begin to work in conference with the Senate, that we will recede to the Senate levels of funding for this work, specifically for the Army Corps of Engineers construction efforts in Central and Southern Florida, the Kissimmee River, and the Everglades and South Florida Ecosystem Restoration projects.

Mr. Chairman, I look forward to working with Members from both side of the aisle to secure adequate funding for these Everglades restoration projects.

MR. KENDALL'S RESPONSE TO MR. STARR'S PRESS RELEASES CONCERNING THE CONTENT MAGAZINE ARTICLE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to enter into the RECORD the following letter from the President's attorney, David E. Kendall, to Independent Counsel Kenneth Starr.

June 16, 1998.

Hon. KENNETH W. STARR,
Independent Counsel,
1001 Pennsylvania Avenue, N.W.,
Suite 490—North, Washington, DC.

DEAR JUDGE STARR: In the past three days, you have issued two press releases on the subject of leaks from your office. I think it is appropriate to respond to this public relations initiative.

In neither of these two press releases have you denied even a syllable of what the Steve Brill ''Pressgate'' article quotes you and your staff as saying. You accuse Mr. Brill of misinterpreting but not misquoting, and that's highly significant.

Your statements in the Brill article are at breathtaking variance with your previous public statements about your duties and actions. Your statements consistently have led the public to believe you would tolerate no leaks of any kind. On January 21, 1998, you stated at your public press conference, ''I can't comment on the investigation as a matter of practice and of law. I just can't be making comments about the specific aspects of our investigation, including to confirm specific activity or not. . . . As an officer of the court, I just cannot breach confidentiality.'' At your public press conference on February 5, 1998, you stated in a CNN interview, ''I'm not going to comment on the status of our negotiations [with Ms. Lewinsky's lawyers] . . . I hope you understand, especially when you ask a question about the status of someone who might be a witness, that goes to the heart of the grand jury process. . . . Those are obligations of law; they're obligations of ethics. . . . I am under a legal obligation not to talk about facts going before the grand jury.'' In your public February 6, 1998, letter to me, you stated that ''leaks are utterly intolerable'' (your words, not mine) and you went on to say ''I have made the prohibition of leaks a principal priority of the Office. It is a firing offense, as well as one that leads to criminal prosecution.'' (Emphasis added).

What is so astonishing about your comments in the Brill article is that they contradict not simply our view but your own frequently and publicly expressed views both about the need to put a stop to leaking and your own protestations about your and your own staff's utter innocence in that regard.

Your press releases do not, however, address three simple points (there is much else that could be said, of course).

(1) If you need to talk to the press, why not do so on the record?

The Rule of the Department of Justice's Criminal Division promulgated by President Reagan's Assistant Attorney General in charge of the Criminal Division was: ''Never talk off the record with the media. If you don't want your name associated with particular comments or remarks, you shouldn't make them to media representatives.'' That's a good rule, because it makes everyone aware of who is making a particular statement, and it's especially important if what you're really trying to do is ''engender public confidence'' in your office. What possible justification do you have for secrecy? It's irresponsible and (under the circumstance) hypocritical.

(2) You are wrongly applying post-indictment standards of allowable prosecutorial comment.

Caught flat-footed by the Brill article, you've attempted to shift your ground by pointing to rules and opinions regarding post-indictment comment by prosecutors. As you well know, the standards are different after an indictment has been brought. At that point, the grand jury has found probable cause to make a criminal charge, the indictment has been openly announced, the defendant has significant procedural rights, including the right to have counsel appointed who will, among other things be able to respond to prosecutorial comments. Prior to indictment, the rule is that grand jury secrecy, a protection designed for witnesses and persons investigated but never finally charged, mandates prosecutorial silence and the confidentiality of grand jury proceedings.

(3) The view of Rule 6(e) that you express in the Brill article and (now) in your press releases is demonstrably not the law.

You are now attempting to justify leaking by you and your Office by claiming that the information your office has covertly given to the media is not covered by Rule 6(e) because, in your own words as quoted by Mr. Brill, ''it is definitely not grand jury information, if you are talking about what witnesses tell FBI agents or us before they testify before the grand jury or about related matters. . . . So, it I a not 6–E.'' (Emphasis in original.) Again, as you well know, this is not the law of the District of Columbia Circuit (or, for that matter, any other circuit). In the Dow Jones case decided by the United States Court of Appeals for the District of Columbia Circuit on May 5, 1998, that court summarized the secrecy rules legally applicable to grand jury investigations. Citing many cases of this Circuit and others decided over the years, the Court of Appeals emphasized that Rule 6(e) is to be given a broad

meaning to encompass much more than simply what transpires within the four walls of the grand jury room. The coverage of the Rule ''includes not only has occurred and what is occurring, but also what is likely to occur. Encompassed within the rule of secrecy are the 'identities of witnesses or jurors, the substance of testimony' as well as actual transcripts, 'the strategy or direction of the investigation, the deliberations or questions of jurors, and the like.'" (Emphasis added.) Your public statements in January and February accurately state the law, but your statements to Mr. Brill do not, and the actions of your Office are in violation of the law.

The media leaks by your Office also violate the ethics rules for federal prosecutors, see, e.g., DOJ Manual §§1–7.510; 1–7.530, which under the Independent Counsel Act you are obligated to comply with unless to do so would be ''inconsistent with the purposes'' of the Act. Complying with the DOJ's anti-leaking guidelines could hardly be ''inconsistent'' with the mission of your office.

Sincerely,

DAVID E. KENDALL.

A TRIBUTE TO DR. JAMES TOBIN

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. STUPAK. Mr. Speaker, at the age of 74, when most men and women might consider that it's time to settle back and enjoy the benefits of retirement, a medical doctor in my district has signed a four-year contract with his local hospital, Bell Memorial Hospital in Ishpeming, Michigan. This extension means that Dr. James Tobin, who also serves as mayor of his home town of Ishpeming, has now begun his second half-century of practicing medicine.

Actually, it's been more than a half century. The son of a doctor who himself practiced medicine until he was 79, Dr. Tobin admitted to a reporter in a recent story in the Marquette Mining Journal that he delivered his first baby in 1947 while only a medical student. Now, 9,000 babies later, Dr. Tobin still conducts his family practice, including obstetrics and gynecology, performs general surgery, and puts in by his own admission about 60 hours of work a week.

His biography recounts the facts of his life and career. A native of the borough of Queens, New York. A 1948 graduate of the Long Island College of Medicine. A 10-year veteran of the U.S. Army Medical Corps. A resident of Marquette County in my Northern Michigan congressional district since 1962. A member of the Ishpeming city council and four times mayor of Ishpeming. An Ishpeming Chamber of Commerce member and former chamber president. Member of a variety of local, state and national medical societies. A visionary chairman of a Michigan governor's task force whose work helped advance the quality of neonatal care at Marquette General Hospital. Church member. Husband. Father of five girls and one boy. Grieving father of a college-age daughter killed in a tragic automobile accident only last December.

This biographical outline can give us a sketch of Dr. Tobin as a member of his community, but it cannot come close to painting a picture of the impact of a family doctor on those around him. In a lifetime of family medical practice, Dr. Tobin has shared intimately in the lives of thousands and thousands of his friends and neighbors, an involvement rich in the pageantry of life and death. In addition to his human drama, Dr. Tobin in the past 50 years has witnessed a revolution in medicine akin to the revolutions in other branches of science.

Advances in life-saving equipment, medicine and techniques, however, has not come without a trade-off in the way medicine is practiced, as Dr. Tobin frankly admits. Working without the benefit of CAT scans or Ultrasound, doctors once had to more carefully hone their skills of observation. ''Your eyes, your fingertips, all of your senses,'' all came into necessary play, he says, adding, perhaps most importantly, ''you had to listen to your patients, too.''

We must go beyond the biographical outline, as well, to get a better view of a genuine human being concerned about the health of all individuals in his community. As the Mining Journal stated, Dr. Tobin has tried to follow in his father's footsteps, assuring all those patients who come into his office that they will be treated. ''Dad took care of rich and poor alike,'' Dr. Tobin says in fond recollection. ''Nobody ever got turned away for lack of money.''

Mr. Speaker, the people of northern Michigan will officially recognize and celebrate this lifetime of dedication—this story for which the final chapters have not yet been written—at a special gathering on June 30. I ask all my colleagues in the U.S. House to join me in praising the selfless commitment of Dr. James Tobin to the health and well-being of his fellow man.

JAMES H. BAKER—A MAN OF HISTORY

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. BARCIA. Mr. Speaker, in each of our communities we have the legacy of historic figures who worked to make a difference. In my district and my home town of Bay City, we have the privilege of having been the home of James Baker, the first black to run for a statewide public office in Michigan. His candidacy was one hundred years ago this month, and is a point of history of importance to all Americans.

Les Arndt has written an informative review of James Baker in the June 1998 issue of *Wonderful Times*, I submit this article to be included in the RECORD as part of my statement. I commend Mr. Arndt's column to all of our colleagues.

[From the Wonderful Times, June 1998]

MEMORY LANE

(By Les Arndt)

On June 21, 1898, exactly 100 years ago this month, the People's Party convention in Grand Rapids nominated Bay Cityan James H. Baker for state land commissioner by acclamation, and he became the first black to run for a statewide public office in Michigan.

Baker campaigned throughout Michigan, and excerpts from one of his campaign posters, paid for by the Committee to Elect James H. Baker, on October 12, 1898, read as follows: ''To the colored citizens and other voters of Michigan: Whereas the People's Party was the first to recognize a colored man on the same ticket, therefore we ask your individual support for James H. Baker. We know he is worthy and well qualified to fill the position and recommend him for your consideration. We beg you to advocate his cause, not for him alone, for he is paving the way for others.''

Bay City was newly chartered when James H. Baker came here in 1867 to make his permanent home and become the keystone to Bay City's black community, after he was mustered out of the First Michigan Infantry as an orderly to General Ely and meritorious service with a black Pennsylvania regiment during several major Civil War campaigns.

The city was still in its infancy, electing a prominent lumberman, Nathan B. Bradley, as mayor only two years previously in the historic first election under city charter, which was held seven days before the end of the Civil War.

When James H. Baker came here in the 1860s, he found only six blacks residing in Bay City. He became a dominant figure not only among fellow blacks but also as a community leader. He bacame a barber, then policeman, and finally the proud owner of the New Crescent Lunch Counter and Ladies' Dining Room at 805 N. Water, which he boasted as ''serving no alcoholic drinks.''

He was a delegate to the First Colored Men's State Convention at Battle Creek, March 25, 1884; a member of a committee of Michigan Negroes who petitioned the state lawmakers ''for the right of suffrage'' and avid backer to a movement to send a black delegate-at-large to the Republican National Convention in Chicago in the late 1880s.

Baker was born in Manchester, Va., where his father, also James H., landed after emigrating from Ireland. A son, Oscar W., was born here in August 1879, and he was scarcely six years old when he was struck by a Pere Marquette Railway train at the 11th and Jefferson crossing and eventually lost a leg. That unfortunate accident launched the Bakers' longtime connection with the law.

The father brought suit in young Oscar's name and won a $5,000 judgment. Although bad investments contributed to the dissipation of the cash before Oscar was 21, he went to the University of Michigan Law School with monies earned as secretary to Michigan Lt. Gov. Orin W. Robinson.

Graduating from law school in 1902, Oscar began practice here with white lawyer Lee E. Joslyn. In 1906, he brought suit against the railroad on the grounds it had been a mistake to pay the $5,000 without securing a bond from his father. After winning in Circuit Court here, the Michigan Supreme Court ruled against him, holding that payment of the $5,000 to the attorneys who were to turn it over to the Bakers qualified as a valid procedure.

As a result of the case, insurance companies, railroads, etc. began to require that a guardian be appointed for minors in civil cases.

Oscar, Sr. was the city's first black attorney, and he became a master courtroom psychologist, especially in criminal cases. He served as director for the association which sponsored professional baseball here at the turn of the century.

James H. Baker's grandsons, Oscar J. and James W., were long-time attorneys here, with the former founding what today is the Baker & Selby law firm after graduation from the U-M Law School in 1935. After practicing for nearly a half-century, Oscar Jr. has retired. In 1937, he was chairman of the State Bar's legal redress committee, traveling the state in helping blacks acquire their rights.

In the mid-1960s Oscar Jr. joined the National Lawyer's Guild voting rights promotion in Mississippi for two consecutive summers, participating in civil rights marches. He also participated in civil rights protests in Detroit.

THE WIPO COPYRIGHT TREATIES IMPLEMENTATION ACT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. COBLE. Mr. Speaker, I submit for the RECORD a copy of correspondence between myself and Congressmen BOUCHER and CAMPBELL on the WIPO Copyright Treaties Implementation Act.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 16, 1998.

Hon. TOM CAMPBELL,
U.S. Representative for the 15th District of California, Washington, DC.
Hon. RICK BOUCHER,
U.S. Representative for the 9th District of Virginia, Washington, DC.

DEAR TOM AND RICK: Thank you for visiting with me in my office recently regarding H.R. 2281, the ''WIPO Copyright Treaties Implementation Act.'' I appreciate the concerns you expressed with respect to H.R. 2281 as it was reported from the House Committee on the Judiciary.

I expressed to you that I would consider your thoughts and respond to you in detail, and am pleased to do so in this letter.

I believe that many of your concerns, which are enumerated in your substitute bill, H.R. 3048, have been addressed already in a reasonable manner in amendments to the bill adopted by the Subcommittee on Courts and Intellectual Property and the Committee on the Judiciary in the House and by the Committee on the Judiciary and on the floor in the Senate (regarding the Senate companion bill, S. 2037). Others have been addressed in legislative history in House Report 105–551 (Part I) which accompanies the bill, as well as in Senate Report 105–190, which accompanies the Senate companion bill. Still others may be addressed as the House Committee on Commerce exercises its sequential jurisdiction over limited portions of the bill and as I work with interested members on developing a manager's amendment to be considered by the whole House. I anticipate including many of the amendments made by the Senate in the manager's amendment, along with other provisions. I anticipate that a conference will be necessary to reconcile the House and Senate versions of the bills.

While I am unable to support the specific provisions of H.R. 3048, for reasons I will explain in this letter, I am willing to work with you in the coming weeks to address additional concerns regarding the impact of this legislation on the application of the ''fair use'' doctrine in the digital environment and on the consumer electronics industry. I wish to stress, however, that I believe the bill, as amended by the House and Senate thus far, and explained by both the House and the Senate Judiciary Committee reports, already addresses these issues in several constructive ways.

I believe it is important, in order to recognize properly the efforts undertaken by the Congress and the Administration to address the concerns of the consumer electronics and fair use communities, to review the history of H.R. 2281 and to evaluate all of the provisions that have been either added to or deleted from the bill since its development leading to introduction in this Congress. As I am sure you will appreciate, I am sensitive to your concerns and have worked diligently with members and all parties involved to create a balanced and fair proposal that will result in the enactment of legislation this Congress.

In February, 1993, the Administration formed the Information Infrastructure Task Force to implement Administration policies regarding the emergence of the Internet and other digital technologies. This task force formed a Working Group on Intellectual Property Rights to investigate and report on the effect of this new technology on copyright and other rights and to recommend any changes in law or policy. The working group held a public hearing in November, 1993, at which 30 witnesses testified. These witnesses represented the views of copyright owners, libraries and archives, educators, and other interested parties. The working group also solicited written comments and received over 70 statements during a public comment period. Based on oral and written testimony, the working group released a ''Green Paper'' on July 7, 1994. After releasing the Green Paper, the working group again heard testimony from the public through four days of hearings held around the country. More than 1,500 pages of written testimony were filed during a four-month comment period by more than 150 individuals and organizations.

In March, 1995, then-Chairman Carlos Moorhead solicited informal comments from parties who had submitted testimony regarding the Green Paper, including library and university groups, and computer and electronics groups, in order to work effectively with the Administration on jointly developing any proposed updates to U.S. copyright law that might be necessary in light of emerging technologies.

In summer, 1995, the working group released a ''White Paper'' based on the oral and written testimony it has received after releasing the Green Paper. The White Paper contained legislative recommendations which were developed from public comment in conjunction with consultation between the House and Senate Judiciary Committees, the Copyright Office and the Administration.

In September, 1995, Chairman Moorhead in the House and Chairman Hatch in the Senate introduced legislation which embodied the recommendations contained in the White Paper and held a joint hearing on November 15, 1995. Testimony was received from the Administration, the World Intellectual Property Organization and the Copyright Office. The House Subcommittee on Courts and Intellectual Property held two days of further hearings in February, 1996. Testimony was received from copyright owners, libraries and archives, educators and other interested parties. In May, 1996, the Senate Judiciary Committee held a further hearing. Testimony was received from copyright owners, libraries and other interested parties. These hearings were supplemented with negotiations in both bodies led by Representative Goodlatte (as authorized by Chairman Moorhead) in the House and by Chairman Hatch in the Senate. Further negotiations were held by the Administration in late summer and fall of 1996.

During consideration of the ''NII Copyright Protection Act of 1995,'' Chairman Moorhead requested that Mr. Boucher and Mr. Berman of California lead negotiations between interested parties regarding the issue of circumvention. While these negotiations were helpful in streamlining and clarifying the issues to be discussed, they ultimately did not result in an agreement.

It is important to note that shortly after its establishment, the Administration task force's working group convened, as part of its consideration, a Conference on Fair Use (CONFU) to explore the effect of digital technologies on the doctrine of fair use, and to develop guidelines for uses of works by libraries and educators. Because of the complexities involved in developing broad-based policies for the adaptation of the fair use doctrine to the digital environment, and due to much disagreement among the participants (including within the library and educational communities), CONFU did not issue its full report until nearly two years after it was convened. An Interim Report was released by CONFU in September 1997 on the first phase of its work. No consensus was reached on how to apply the fair use doctrine to the digital age. In fact, the CONFU working group on interlibrary loan and document delivery concluded in a report to its Chair that it is ''premature to draft guidelines for digital transmission of digital documents.'' The work of CONFU continues today and a final report should be released soon with no agreed conclusions. As you can see, developing sweeping legislation, rather than relying on court-based ''case or controversy'' applications of the doctrine, is exceedingly difficult to do.

Since before the debate began with the establishment of a task force in the United States in 1993, the international community had also been considering what updates should be made to the Berne Convention on Artistic and Literary Works in order to provide adequate and balanced protection to copyrighted works in the digital age. This culminated in a Diplomatic Conference hosted by the World Intellectual Property Organization at which over 150 countries agreed on changes needed to accomplish this goal.

This goal was not reached easily, however, and many of the issues being debated by the Administration and the Congress in the United States concerning fair use and circumvention were aired at the Diplomatic Conference, with significant changes made to accommodate fair use concerns and the effect on the consumer electronic industries. Representatives of both groups participated in the Conference and aggressively sought to maintain proper limitations on copyright. They succeeded. For example, language was added to ensure that exceptions such as fair use could be extended into the digital environment. The treaty also originally contained very specific language regarding obligations to outlaw circumvention. It was changed to state that all member countries ''shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors in connection with the exercise of their rights under this Treaty.'' This left to each country the development of domestic legislation to accomplish this goal.

After the United States signed the WIPO Treaties, the Administration again began negotiations led by the Department of Commerce and the Patent and Trademark Office, in consultation with the Copyright Office and the Congress, to develop domestic implementing legislation for the treaties. It built upon the efforts already accomplished by the release of the Green Paper and the White Paper and all of the testimony and comments heard as part of that process, the House and Senate bills introduced in the 104th Congress and all of the hearing testimony and negotiations associated with them, and the negotiations held by the Administration leading up to and during the Diplomatic Conference. Again, comments were solicited from fair use and consumer

electronics groups. In the summer of 1997, the Administration submitted to the Congress draft legislation to implement the treaties. In July, 1997, Chairman Hatch and I introduced the current pending legislation in each house. Importantly, the legislation was tailored to match the treaty language by establishing legal protection and remedies not against any technological measures whatsoever, but only ''against the circumvention of effective technological measures that are used by authors in connection with the exercise of their rights.''

The fair use and consumer electronics groups succeeded, just as they had at the Diplomatic Conference, in assuring in the introduced version of the bills the maintenance of proper limitations on copyright. The Administration had considered originally banning both the manufacture and use of devices which circumvent effective technological measures and had no specific provision on fair use, since Section 107 of the Copyright Act would, of course, continue to exist after enactment of the legislation. The word ''use'' was eliminated in the device provision and a specific provision relating to the adoption of the fair use doctrine in the digital environment was added.

As it was introduced, H.R. 2281 contained two important safeguards for fair use. First, the bill dealt separately with technological measures that prevent access and technological measures that prevent copying. As to the latter, the bill contained no prohibition on the act of circumvention itself, leaving users free to circumvent such measures in order to make fair use copies. Second, the savings clause in subsection 1201(d) ensures that defenses to copyright protection, including fair use, are unaffected by the prohibitions on circumvention. For example, circumvention of an effective technological measure that controls access to a work does not preclude, or affect in any way, a defense of fair use for copying the work. Moreover, the bill as introduced did not expand exclusive rights or diminish exceptions and limitations on exclusive rights.

Again, a series of legislative hearings were held by the House and Senate Judiciary Committees at which testimony was again heard from copyright owners, libraries and archives, educators, consumer electronics groups and other interested parties. In February, 1998, almost five years to the date of the establishment of the Administration's working group, taking into account all of the concessions and negotiations leading up to it, the first markup was finally held in Congress by the Subcommittee on Courts and Intellectual Property on this important legislation. As is evident by the timetable involved in the development of this legislation, and considering the number of hearings, negotiations and conferences dedicated to its contents, this bill certainly has not been placed on any ''fast-track.''

In the course of Subcommittee and Committee consideration of the bill in the House, the gentleman from Massachusetts, the Ranking Democratic Member of the Subcommittee, Mr. Frank, and I, proposed a number of improvements to the bill, which were adopted by the Committee, that benefit libraries and nonprofit educational institutions. We introduced a special ''shopping privilege'' exemption that permits nonprofit libraries and archives to circumvent effective technological measures in order to decide whether they wish to acquire lawfully a copy of the work. We added a provision that requires a court to remit monetary damages for innocent violations of sections 1201 or 1202. And we eliminated any possibility that nonprofit libraries and archives or educational institutions can be held criminally liable for any violation of sections 1201 or 1202, even when such violations are willful.

These changes add protection to language already included in the bill which safeguard manufacturers of legitimate consumer electronic devices. Unlike the ''NII Copyright Protection Act of 1995,'' which would have prohibited devices ''the primary purpose or effect of which is to circumvent,'' H.R. 2281 sets out three narrow bases for prohibiting devices. A device is prohibited under section 1201 only if it is primarily designed or produced to circumvent, has limited commercially significant use other than to circumvent, or is marketed specifically for use in circumventing. This formulation means that under H.R. 2281, it is not enough for the primary effect of the device to be circumvention. It therefore excludes legitimate multipurpose devices from the prohibition of section 1201. Devices such as VCRs and personal computers do not fall within any of these three categories (unless they are, in reality, black boxes masquerading as VCRs or PCs).

In addition, H.R. 2281 as introduced does not require any manufacturer of a consumer electronic device to accommodate existing or future technological protection measures. ''Circumvention,'' as defined in the bill, requires an affirmative step of ''avoiding, bypassing, removing, deactivating, or otherwise impairing a technological protection measure.'' Language added in the Senate, referred to below, clarified this even further.

In addition to all of the foregoing, there are a number of amendments that were made in the Senate bill that will be included in the manager's amendment to H.R. 2281. These include: an expansion of the exemptions for nonprofit libraries and archives in 17 U.S.C. § 108 to cover the making of digital copies without authorization, for purposes of preservation, security or replacement of damaged, lost or stolen copies; an expansion of section 108 to cover the making of digital copies without authorization in order to replace copies in the collection that are in an obsolete format; a provision directing the Register of Copyrights to make recommendations as to any statutory changes needed to apply the limitations on liability of online service providers to nonprofit educational institutions that act in the capacity of service providers; a provision directing the Register of Copyrights to consult with nonprofit libraries and nonprofit educational institutions and submit recommendations on how to promote distance education through digital technologies, including any appropriate statutory changes; a savings provision stating that nothing in section 1201 enlarges or diminishes vicarious or contributory liability for copyright infringement in connection with any technology, product, service, device, component or part thereof; a provision that states explicitly that nothing in section 1201 requires accommodation of present or future technological protection measures; a provision to ensure that the prohibition on circumvention does not limit the ability to decompile computer programs to the extent permitted currently under the doctrine of fair use; and a provision ensuring that technology will be available to enable parents to prevent children's access to indecent material on the Internet.

I believe that these are constructive provisions that precisely and carefully address specific concerns you have raised in H.R. 3048. In order to assure that fair use applies in the digital environment, in addition to the above changes, I have also agreed to include in the manager's amendment an amendment to Section 107 of the Copyright Act to make it continue to be technology-neutral with respect to means of exploitation.

It may be helpful, in addition to discussing what is contained in H.R. 2281 and the Senate companion, and what will be included in the manager's amendment, to raise directly with you some of the identifiable problems I see associated with H.R. 3048 as introduced.

Section 2 of H.R. 3048 would make two changes to Section 107 of the Copyright Act. It would add a specific reference to make explicit that fair use can apply to both analog and digital transmissions and would direct courts, in weighing fair use, to give no independent weight to either (1) the means by which a work is exploited under the authority of the copyright owner, or (2) the copyright owner's use of a copy protection technology. By amending Section 107 in this manner, H.R. 3048 implies that, currently, Section 107 does not apply to digital transmissions, or at a minimum, suggests that uses that are not mentioned specifically in the statute are less favored than those that are. Given that courts have been applying presently the fair use doctrine to digital transmissions, the risks inherent in burdening Section 107 with technology-specific language must be weighed against any benefit of added clarity the amendment would provide. Because no clarity is needed, since courts routinely apply the doctrine to digital transmissions, it is my opinion that the detriments of such a change outweigh any perceived benefits. As I mentioned, I would be pleased to clarify Section 107 by deleting any references to enumerated rights in Section 106 to reaffirm the application of fair use on the digital environment, rather than by placing technology-specific language in the limitation itself.

The other amendment to section 107 you propose would, for the first time, direct courts to ignore possibly relevant information in making a fair use determination. As it has developed over time, courts have been allowed to look, depending on the case or controversy in question, at the totality of the facts and circumstances surrounding a given use. This has enabled courts to reach a fair result. If, for example, a user breaks a ''technological lock'' in order to gain access to a work, the user has engaged in activity that goes beyond the bounds of traditional fair use. Fair use has never been interpreted to afford users a right of access. The provision you propose would grant to users a right of free access, rather than a right of fair use. H.R. 3048, therefore, in my opinion, changes U.S. policy in an extreme manner that undermines the free market principles protecting a creator's right to control initial access, as opposed to all uses, of his or her work.

H.R. 3048 also would make the ''first sale doctrine,'' codified in Section 109 of the Copyright Act, applicable to digital transmissions of copies of works. The first sale doctrine limits the exclusive rights granted a copyright owner with respect to a particular copy of a work to the first sale or transfer of that copy. Thereafter, the purchaser or transferee of that particular copy may generally sell, lend, rent or give it away without violating the copyright owner's distribution right. This doctrine was created by the courts to secure the alienability of tangible property and to curb any effort by a copyright owner to control the after-market for resales of the same copy of a work.

Section 4 of H.R. 3048 would exempt the performance, distribution or display (and the reproduction, to the extent necessary for the performance, display or distribution) of a lawfully-acquired copy of a work (presumably including, under the bill, one obtained for free through circumvention, as long as such circumvention was done for obtaining a copy to make a fair use of portions of it), by means of a transmission to a single recipient, provided that the ''original'' copy is destroyed.

In my opinion, this extension of the first sale doctrine is antithetical to the policies

the doctrine was intended to further. The alienability of tangible property is not at issue, since no tangible property changes hands in a transmission. Further, it does not address specifically the ability to control the after-market for resales of the same copy of a work, wince in this case distribution of a work by digital transmission necessarily requires a reproduction—it is not the same copy. The bill's answer to this quandary—that the original copy must be destroyed—is unenforceable and certainly not a substitute for disposition of a tangible copy. Destruction involves an affirmative act, generally in the privacy of a home, that is difficult to police and would involve significant invasions of privacy if it were policed effectively.

Further, regardless of whether the original copy is destroyed, the new copy would be free of contractual or other controls placed on the original copy by the copyright owner. It is also likely that this provision would have a much greater impact on an owner's primary market for new copies of a work than the current first sale doctrine has on the primary market for physical copies. Unlike used books, digital information is not subject to wear and tear. The ''used'' copy is just as desirable as the new one because they are indistinguishable. For this reason, Congress has curtailed the first sale doctrine as it applies to the rental of sound recordings and software in the past, to prevent posing so great a burden on a copyright owner so as to undermine the incentive to create works which is the driving force behind the Copyright Act.

H.R. 3048 would also broaden Section 110(2) of the Copyright Act so that the performance, display, or distribution of any work (rather than just the performance of a nondramatic literary or musical work and the display of any work) through digital transmission (rather than just through audio broadcasts) would be allowed without the permission of the copyright holder, as long as it is received by students, or by government employees as part of their duties. This broad expansion of the distance learning provisions currently codified in the Copyright Act would permit the transmission of a wide variety of Internet-based or other remote-access digital transmission formats for distance education and raises serious questions about safeguards to prevent such transmissions from unauthorized access. In other words, it may facilitate piracy.

Both CONFU and the Senate have discussed the intricacies involved in safeguarding transmissions used for distance learning purposes and have agreed that it is premature to enact specific legislation at this time. As discussed earlier, the Senate has included a provision in its companion bill, which I plan to include in the House manager's amendment, that will provide for a study with legislative recommendations on this issue, within a six-month time frame. This study will be better able to address the complex problems I have identified.

Section 7 of H.R. 3048 would amend Section 301(a) of the Copyright Act to preempt enforcement of certain license terms under state law. Specifically, it would preempt any state statute or common law that would enforce a ''non-negotiable license term'' governing a ''work distributed to the public'' if such term limited a copying of material that is not subject to copyright protection or if it restricted the limitations to copyright contained in the Copyright Act. In effect, it would prohibit standard form agreements, used in the context of copies distributed to the public, that purport to govern use of noncopyrightable subject matter or limit certain exceptions and limitations, such as fair use.

The use of standard form licensing agreements has become prevalent in the software and information industries, as owners seek to protect their investment in these products against the risk of unauthorized copying. Section 7 would result in destroying the ability of the producer of a work to create specific licenses tailored to the circumstances of the marketplace, or, in the case of factual databases and other valuable but noncopyrightable works, destroy the most significant form of protection currently available. This could result, for example, in the loss of crucial revenues to stock and commodity exchanges who rely on such contracts to disseminate information.

Attempts to introduce language similar to Section 7 of H.R. 3048 into Article 2B of the Uniform Commercial Code (UCC) have been rejected repeatedly by the UCC Article 2B Drafting Committee on several occasions. The National Conference of Commissioners on Uniform State Laws also rejected a proposal similar to the one you propose as has the American Law Institute. I agree with these bodies that restricting the freedom to contract in the manner proposed in H.R. 3048 would have a negative effect on the availability of information to consumers.

H.R. 3048 also proposes several changes to Section 108 of the Copyright Act regarding archiving and library activities. As you are aware, library groups and copyright owners have come to an agreement regarding changes in this section to update the Act for the digital environment and those changes were incorporated by the Senate in the companion bill. I will include those same provisions in the manager's amendment in the House.

Finally, the new Section 1201 contained in H.R. 3048 would not prohibit manufacturing or trafficking in devices purposely created to gain unauthorized access to copyrighted works, and insofar as it prohibits conduct, would permit circumvention in the first instance for purposes of fair use. In other words, H.R. 3048, as I discussed earlier, would grant to users a right never before allowed—free access to copyrighted works in order to make a fair use. I believe that is unwise policy and tilts the balance away from the protection of works in a free market economy toward the free provision of works to anyone claiming to make a fair use. This would, I believe, ultimately lead to much more litigation against libraries and others who lawfully engage in fair use and ultimately would diminish the number of works made available over new media.

While it would be impossible to communicate to you all of the problems contained in the exact language of H.R. 3048, I wanted to, in truncated form, reveal my serious concerns with the bill. In its current form, for the above reasons and others, I would oppose it as a substitute to H.R. 2281, as amended. I remain dedicated, however, to working with you, as I have in the past, to address your concerns in a reasonable manner that will result successfully in changes to our nation's copyright law that will benefit both owners and users of works.

I truly believe that we are at the beginning of a long process of addressing adaptation to the digital environment. It is not possible at this point to enact legislation that will contemplate all uses of a work and, as CONFU members aptly point out, many will have to be addressed as we move forward. I am committed, however, to preserving fair use in the digital age and thank you for your valuable and continuing insight and interest.

Sincerely,

HOWARD COBLE,
Chairman,
Subcommittee on Courts and Intellectual Property.