and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.''

These are beautiful words. But more than beautiful, they can be used and enforced to create a more perfect union. But our country is at a time in its history when the words ''domestic tranquility'' and ''general welfare'' seem to signify things of the past.

I am here today to talk to you about guns. The widespread availability of these weapons is frightening and wrong. Thousand are killed every year in our country by guns bought legally, guns made not to hunt animals but to hunt humans. Many have killed or have been killed by the time they reach my age, if they ever do.

I am a strict constructionist when it comes to the preamble and the Second Amendment, meaning I believe that our forefathers wrote just what they meant. They meant for the Constitution to create domestic tranquility and general welfare and, especially, common defense. I believe—I know—that the guns that are available today do none of these things. I believe and I know that our forefathers would agree, because I refuse to think that the intentions of the ones who wrote the Constitution was to put lethal weapons in the hands of every person who wanted one. That is not ''a well regulated militia.'' No, their intention was to ensure the safety and freedom of us, their posterity.

I proposed that we follow the words of the preamble and of our constitution. I proposed that we take a step to make our nation safe again, for me and for the children I want to have some day. I propose we remove the guns from our streets, our homes and our hands.

Congressman SANDERS. Thank you very much.

MERGERS, ACQUISITIONS AND CONVERSIONS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 9, 1998

Mr. STARK. Mr. Speaker, attached are two important articles that spotlight a significant problem with the rampant mergers, acquisitions, and conversions going on throughout our health care system today.

Recently, the two Blue Cross plans in Washington and Maryland combined into one plan. There was, at the time, and continues to be, great concern within the consumer community—lead by A.G. Newmyer of the Fair Care Foundation—with this merger. He makes a strong case that the eventual goal of this merger was not to provide better quality health care to the plans' members—as both health plans proclaim. Instead, it was to line the pockets of health plan executives and pave the way to convert the bigger, stronger plan into a for-profit entity. Under both of these scenarios the community loses.

The attached articles outline Mr. Newmyer's perspective on this merger quite well and I encourage everyone to read them.

[From the Daily Record, Aug. 10, 1998]

DID BLUES EXECS PAD THEIR POCKETS?

(By Bob Keaveney)

On May 23, 1997 at 12:30 p.m., over lunch at a Washington-area restaurant, A.G. Newmyer III says his friend, at the time a director of Blue Cross Blue Shield of the National Capital Area, made a shocking admission.

Newmyer says the director, whom he will not name, told him that Larry Glasscock, then-president of the D.C. Blues, would leave the company after its combination with Maryland's Blue Cross plan was complete.

Newmyer said he was complaining to his friend about the way the D.C. Blues treats its members generally, and about Glasscock specifically, when the director ''smiled and said, 'After the merger, he'll be gone.' ''

Last March, two months after the deal was complete, Glasscock did leave for a job in Indianapolis, taking with him nearly $3 million in severance. Several other members of the D.C. Blues' senior management team left, too, taking with them another $3.7 million combined.

Newmyer's story, if corroborated, would supply the smoking gun he said he needs to prove his contention that the Blues' year-long effort to gain regulatory approval for its merger was a sham from the beginning.

That's because Glasscock told regulators that he had no immediate plans to leave, even though Glasscock's employment contract permitted him to do so—taking the severance pay with him—should the merger be consummated.

The insurance commissioners of Maryland and the District each have said they would not have approved the merger had it appeared to be a deal designed to allow executives to profit personally.

The story also would support Newmyer's view of the merger as a cynical power grab, orchestrated by a handful of top executives harboring a quiet agenda to one day convert the new, combined Blues into a for-profit health insurance powerhouse.

But there is no evidence that the meeting ever took place, much less any proof that the anonymous director ever made such a foolhardy utterance.

And Newmyer is an admitted mortal enemy of Blue Cross plans locally and nationally.

A loud and frequent critic of what he views as shabby treatment of policy holders, he is chairman of the Fair Care Foundation, a Washington-based Blues' watchdog group correctly suing the Blues in the District of Columbia in a long-shot bid to force them to unmerge.

Newmyer says he won't reveal his lunch companion's identity because Fair Care has sued him for breach of fiduciary responsibility, ''and I don't want to torment him further, personally.''

Still, Newmyer, a Northern Virginia businessman, isn't the only one who finds the circumstances surrounding the Blues deal curious.

Some eight months after its closing, consumer groups and Blue Cross-watchers in other parts of the country are eying the deal here with skepticism.

And there are several peculiarities to the deal, which may lend credence to their view.

THE DEAL

All sorts of level-headed business reasons exist that a merger made sense between Owings Mills-based Blue Cross Blue Shield of Maryland and Washington-based Blue Cross Blue Shield of the National Capital Area.

At the time of the deal's closing, the D.C. Blues had 760,000 members in the District and its highly mobile suburbs in Maryland and Northern Virginia. The Maryland Blues had 1.5 million members in and around Baltimore.

The companies figured that by combining, each would expand its network of providers, allowing members living in Montgomery County (D.C. Blues'-territory) but working in the Maryland Blues' Howard County, to see a doctor in either place.

And by getting bigger—the combined Blues would have more than 2.2 million members and $3 billion in revenue—officials said the company could compete better against its heavily muscled for-profit peers, offer more products and enhance its customer service.

''Affiliating our two contiguous Blue Cross Blue Shield plans is a logical business decision that will allow us to offer our members the most comprehensive health care services available and operate more efficiently over time,'' said William Jews, president of the Maryland Blues, in a statement in January.

Under terms of the deal, a new holding company would be formed, called CareFirst, based in Owings Mills. CareFirst would operate both Blues' plans as subsidiary companies.

Jews would become president and CEO of CareFirst, as well as CEO of both Blues. Glasscock would be chief operating officer of CareFirst and both Blues, as well as president of both Blues.

But as it turned out, that organizational structure lasted only a few weeks.

QUIET EXIT

On March 27, Indianapolis-based Anthem Inc., an owner of for-profit Blue Cross plans in four states, said that Glasscock would join the company in a new position, senior executive vice president and COO.

Anthem, however, did not make that announcement to the Baltimore or Washington press, and it wasn't known here until May 19, when several newspapers, including The Daily Record, discovered the departure and reported it.

Then and now, Blues officials have insisted that the $6.5 million in severance payments made to Glasscock and 25 other departing executives was proper, legal and in line with what high-ranking executives at other, similarly sized Blues plans have received upon departure.

Glasscock repeatedly has refused to speak to the Baltimore media since his departure and declined, again, to comment for this story.

''He only wants to talk about his future with this company,'' said Patty Coyle, an Anthem spokeswoman.

Others have criticized his golden parachute as a typical example of what happens when state regulators don't monitor the assets of Blues plans—assets built up, in part, by tax breaks granted the Blues because of non-profit status.

Indeed, the circumstances surrounding Glasscock's departure are at the root of one of the fundamental charges levied against the Maryland and D.C. Blues by Fair Care.

GOLDEN PARACHUTE

The organization claims that officials not only knew Glasscock would leave after the merger, but that the merger was contingent upon his agreement to go.

After Glasscock's departure, Jews took over his former jobs, becoming president and CEO of CareFirst and both Blue Cross plans.

''Bill Jews gave Larry Glasscock a $3 million 'tip' to get out of town,'' Newmyer said.

There is no hard evidence of that, and the Blues deny it vehemently.

Dwane House, a director of the D.C. Blues until the merger was completed and a high-ranking executive at Anthem until retiring in recent months, said Newmyer's assertion is false.

''To the best of my knowledge, he hadn't made a decision to leave'' until after the merger was final, House said from his South Carolina home.

But in support of their contention, merger opponents point to changes that were made to Glasscock's contract with the D.C. Blues in the days leading up to the merger—changes that ensured Glasscock's golden parachute would safely open after the deal closed.

The golden parachute clause in Glasscock's contract allowed him to collect the severance payment should he ever find himself in a job lower than the top position at the D.C. Blues, or any company controlling the D.C. Blues.

The so-called change-in-control clause was altered slightly—but critically—in 1997, while the D.C. and Maryland Blues were seeking regulatory approval for their merger.

To exercise the clause, two things had to happen: The change in control needed to take place leaving Glasscock as the less-than-senior official, and he needed to be terminated, according to a consultant's analysis of the contract prior to the merger.

Although the Blues have maintained that Glasscock resigned his position—and was not fired—Blues spokeswoman Linda Wilfong said he was able to satisfy the latter requirement, because his contract allowed him to terminate himself.

QUESTION OF SELF-DEALING

For merger opponents, the objectionable contract change made it clear that accepting a position as the less-than-senior official in the new merged Blues was not a forfeiture of Glasscock's right to exercise the change-in-control clause.

The provision was added last year, as the companies were jockeying for regulatory approval of the merger.

Many executive compensation packages include change-of-control provisions not unlike Glasscock's—and this one, in fact, did not alarm Sibson & Co., the New Jersey-based analyst hired to review the contract.

Maryland Insurance Commissioner Steven Larsen said he asked for the independent analysis, because he wanted to be sure that the changes made to Glassocck's contract in 1997 would not entitle him to additional severance pay.

He said he was satisfied with the Sibson report's conclusion.

But the Glasscock change took the unusual step of making it clear that he could exercise his change-in-control clause, even though he was helping to engineer the change in control.

In other words, by allowing Glasscock to demote himself through his work in brokering the merger, the change gave him cause to effectively fire himself after the merger was complete, allowing him to collect a $2.8 million severance.

''When you say, 'What did they do? What happened?' They caused that to happen,'' Newmyer said. ''He [Jews] had to get his hand on the [Blues'] assets, and to do that, he had to get Larry Glasscock out of the way.''

NO COMMENT

Both Jews and John Piccioto, the Blues' in-house counsel, declined interview requests to explain why the Blues thought it necessary to alter Glasscock's change-in-control clause, when they say they saw no reason to believe he would be leaving after the merger.

''I think what you're trying to get at is a little too close to the litigation,'' said Wilfong.

At least one regulatory who reviewed the proposed merger, Dana Sheppard of the District's Office of Corporation Counsel, raised objections to Glasscock's golden parachute on Nov. 24, 1997, two months before the merger closed.

''Mr. Glasscock, as the senior official at [the D.C. Blues], deserves the closest scrutiny, because he entered into the proposed business combination agreement with [the Maryland Blues] knowing that he would not retain his current position in the controlling organization,'' Sheppard wrote in his proposed conditions to the merger's approval.

''Accordingly, he has positioned himself, intentionally or unintentionally, to leave [the D.C. Blues] with substantial charitable assets.''

Given that, Sheppard recommended that the District's insurance commissioner, Patrick Kelly, block the merger unless Glasscock and other executives with change-of-control provisions in their contracts ''take appropriate action to immediately render the provision null and void.''

On Dec. 23, Kelly approved the merger with a series of conditions—but none required Glasscock to give up the golden parachute.

OVERDRIVE

What happened in the 29 days between Nov. 24 and Dec. 23 to cause Kelly to reject the suggestion of one of the District's own lawyers advising him on the matter?

Newmyer thinks he knows exactly what happened.

''I am 99.9 percent convinced that because Dana Sheppard had raised an issue that truly went at the heart of this matter . . . the lobbyists from Blue Cross went into overdrive,'' he said.

He believes Blues' lawyers met with Kelly in the days prior to his approval of the merger to convince him to drop Sheppard's suggestion to cut Glasscock's golden parachute.

Kelly did not return a call seeking comment. Sheppard declined to speak for the record, citing Fair Care's pending litigation.

Bob Hunter, director of insurance for the Consumer Federation of America (CFA) and the former Texas insurance commissioner, said he believes there was an inappropriate meeting.

''Blue Cross got to look at the proposed order and propose changes [when others did not],'' Hunter said. ''A public process shouldn't happen that way. . . . The District of Columbia should have reorganized the hearing, and as parties, we should have been invited.''

The CFA is supporting Fair Care's suit.

SECRET MEETINGS?

Tim Law, an attorney with the Philadelphia law firm handling Fair Care's case, said the group did not know that Sheppard's proposed conditions existed until after the merger was complete. They never received them.

''That's one of the weird things,'' Law said. ''It gets put in the record, but it doesn't get served to everyone. So sometimes, we didn't know about things. Important things, like that.''

Wilfong refused to answer any questions related to allegations of secret ex-parte meetings between regulators and Blues' officials, which are at the heart of Fair Care's lawsuit.

The case now is awaiting a decision on an appeal of a District of Columbia judge's ruling that the group does not have standing to sue.

In addition to the alleged meeting between Kelly and Blues' lawyers Nov. 24 and Dec. 23, Fair Care contends that Kelly and Maryland Insurance Commissioner Larsen, in separate Jan. 16 letters, changed their own approvals of the merger after having private meetings with Blues' lawyers.

Kelly and Larsen approved the merger on Dec. 23.

Among other things, the group is angry that both commissioners agreed to make it clear that portions of executive contracts dealing with severance payments negotiated prior to 1997 were not subject to their approval, as both orders had required.

Larsen acknowledges there was a meeting with Blues lawyers prior to the Jan. 16 letter, and that he issued the letter at the Blues' request.

But he insists that there was nothing inappropriate about the meeting or the letter. The purpose of both, he said, was to clarify his order—not to change it.

''That meeting was about as routine as you could have in the context of a very significant order being issued,'' he said.

''I don't know what else to say, other than to not be able to have that meeting is absolutely absurd. I have a responsibility to the entities I regulate to explain the meanings of the orders I issue,'' he added.

CHARITABLE?

Along with questions about Glasscock's contract, an ongoing debate questions whether Blue Cross plans, both locally and in other parts of the country, are, in fact, charitable organizations.

Certainly, at first glance, it would appear that they are not. Although nonprofit, they act as insurance companies. They charge premiums like any insurer and expect to be in the black at year's end.

The local Blues long has insisted that it is not a charity, and made that position clear last year to the insurance commissioners.

''I know what the criteria for a charity are,'' Larsen said. ''Blue Cross is not a charity in my view. . . . Blue Cross is'' an insurance company.''

Maryland Attorney General J. Joseph Curran disagrees. His office long has held that Blue Cross of Maryland is indeed a charitable organization and always has been.

This is not just an academic debate among lawyers, however.

Nationwide, as nonprofit Blues plans have converted themselves into for-profit companies, the answer to the charity question has been crucial to deciding whether the Blues must set aside a portion of assets in public trust, to be used for charitable health purposes.

Just last month, a group of small charities in Georgia settled a lawsuit with that state's Blues in which the now for-profit company agreed to set aside $64 million in trust.

In California in 1994, California's Blues was forced by the state attorney general to set aside $3.2 billion in two trusts, said Frank McLoughlin, staff attorney for Community Catalyst, a Boston-based consumer group that monitors nonprofit to for-profit conversions.

''There's a difference between a charity—like a soup kitchen. . . . and a charitable organization,'' said McLoughlin.

''A lot of Blue Cross officials think that because they look like a regular health insurance company and because they act like a regular health insurance company, they're no longer bound by legal doctrine.''

CHANGE IN IDENTITY

The Maryland Blues has tried twice—in 1994 and 1995—to convert to for-profit status, but has been thwarted both times. it has made no secret that it may try again.

Locally, the Blues has suffered two setbacks in its attempt to distance itself from that doctrine in the last year.

Last fall, the D.C. Blues tried unsuccessfully to drop its federal charter—which established the company in 1934 as a ''charitable and benevolent organization''—in favor of a charter with the District, where the law is vague on the question.

Under a D.C. charter, the Washington Blues would no longer have been identified as a ''charitable and benevolent'' organization.

Consumer groups that lobbied Congress to block the charter switch, said the language defines its tax-exempt, nonprofit status, as well as its obligation to serve the public.

''To change their identity in the context of what's going on around the country is a harbinger of things to come in the for-profit sector,'' said Julie Silas, staff attorney with Consumer's Union, which first drew attention to the issue.

And during the 1998 General Assembly session, lobbyists from the Maryland Blues tried to attach an amendment to a bill making it harder for nonprofit health care entities to convert to for-profit.

Curran said the amendment would have made it easier for the Blues to convert without a public set-aside.

The rider seemed innocuous enough. It merely stated that the Blues exist to serve policy holders, not the general public.

But when lawmakers sponsoring the bill learned that such arguments have been made in other states to attempt to establish Blues' plans as non-charitable, they were furious.

''It's sad and embarrassing,'' said Del. Dan Morhaim, D-Balto. City, one of the sponsors for the legislation, at the time. ''Its a slap in the face of Maryland taxpayers.''

[From the Washington Post, Aug. 18, 1998]

$2.9 MILLION HELPS TO LEAVE THE BLUES BEHIND

(By David S. Hilzenrath)

For occupants of the executive suite, parting may be sweet sorrow, or it may be just plain sweet.

When Larry C. Glasscock left Blue Cross and Blue Shield of the National Capital Area in April to take a job at another health insurer, the former chief executive took with him severance benefits of $2.9 million.

That was more than six times the salary provided in Glasscock's February 1997 employment contract at the nonprofit company.

A.G. Newmyer III, chairman of Fair Care, a patient advocacy group that has battled Blue Cross, called the package ''a disgraceful diversion of charitable assets. . .to the pockets of one executive.''

Glasscock didn't return telephone calls seeking a comment, but a spokesman for his new employer, Anthem Inc., quoted him as saying: ''I don't want to talk about that—that's ancient history, it's in the past.''

Maryland Insurance Commissioner Steven B. Larsen said the package is consistent with industry norms. ''There's no question that $3 million is a significant amount of money, but. . .that must be understood in the context of a situation where you have a CEO who is running a billion-dollar operation, and. . .this is the type of benefit package that people of that caliber receive.''

Glasscock's deal reflects the perquisites of executive power, even in the nonprofit sector. His employment contract at the D.C. company permitted him to collect his severance benefits if he left voluntarily after a ''change in control,'' such as the merger he negotiated with Blue Cross and Blue Shield of Maryland.

When the two Blues combined in January to form CareFirst Inc., the top job went to William L. Jews, who had run the Maryland company, and Glasscock became chief operating officer. A few months later Glasscock moved to a comparable job at Anthem Inc., a Blue Cross insurer in Indiana.

Early last year, even as the two companies were preparing to merge their operations, Glasscock signed a new contract that improved his severance benefits, at least modestly. For example, it provided coverage for travel expenses that Glasscock might incur while looking for a new job, according to a description filed with the Maryland Insurance Administration.

The 1995 version of the contract restricted Glasscock's ability to join a competing company. The Febraury 1997 version of the contract, signed several weeks after the companies announced their intent to combine, relaxed that restriction somewhat, according to an analysis filed with Maryland regulators.

The 1997 version also provided coverage for travel expenses that Glasscock might incur while looking for a new job.

In addition, the updated contract restructured Glasscock's severance package in a way that could have helped him avoid a deep excise tax on golden parachutes. The tax would have applied only if the the company issued stock to the public before Glasscock left.

According to an analysis prepared in January by consultants to the D.C. company, Glasscock's 1997 contract entitled him to severance benefits of $2,874,357 plus any bonuses coming to him under an incentive plan. The total included $125,000 for serving as a consultant to the company for a year after leaving and $1,677, 638 for promising not to compete with it directly.

That set off alarm bells last year in the D.C. Corporation Counsel's Office, which recommended that the ''change of control'' benefits be eliminated before the merger received approval. Glasscock ''has positioned himself, intentionally or unintentionally, to leave . . . with substantial charitable assets,'' possibly in violation of law, Corporation Counsel John M. Ferren wrote.

But insurance regulators in the District and Maryland decided that the benefits should not stop the deal because they were part of Glasscock's employment contract before the merger was negotiated. The overall cost of the package to Blue Cross remained unchanged from 1995, according to Sibson & Co., a consultant to Blue Cross that prepared a report for D.C. and Maryland regulators.

The actual payment totaled $2,890,561, Blue cross informed Larsen.

A CLOSER LOOK AT GLOBALIZATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 9, 1998

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, September 2, 1998, into the CONGRESSIONAL RECORD.

A CLOSER LOOK AT GLOBALIZATION

Hoosiers are becoming more aware of the globalization of the economy—the way that the U.S. economy is increasingly linked to those of other countries through trade and technology. They recognize some of the benefits of this globalization—lower prices for consumer goods and expanded markets for Indiana exports—but they are also concerned when they see jobs eliminated in Indiana and created in Mexico and see the Asian and Russian economic crises hurt our stock market. All of us must more fully understand what effects in our economy can and cannot be attributed to globalization, so we can properly respond to these changes.

MAIN FACTORS

The principal factors involved in globalization are:

Increased telecommunications and transportation networks. Technological changes are the driving force of globalization. These can be seen through telecommunications satellites, fax machines, the internet and other electronic linkages, as well as through expanded and improved land, sea, and air transportation among countries. To take one example, in 1968 only 80 simultaneous phone calls could be made between the U.S. and Europe. Today, satellites and undersea cables can accommodate one million calls at a time.

Increased trade. The volume of world merchandise trade today is 16 times what it was in 1950. Increased trade allows countries to specialize in what they make best, increasing global economic efficiency. The World Bank expects consumers to gain between $100 billion and $200 billion every year in additional purchasing power as a result of reduced tariffs and increased trade.

Increased investment. International investment is perhaps the most significant, but least understood, effect of globalization. Since the 1980s, investment across national borders has increased four times faster than international trade. International investment helps a country use its advantages and makes it more competitive.

BENEFITS AND COSTS

While globalization can have major benefits, it can also be disruptive.

Greater efficiency and falling prices. The development of world markets means that the goods Americans produce the most efficiently will become more profitable, as we are able to sell them to wider markets. And that creates more jobs in America. Consumer prices will also fall on items that we can buy from cheaper producers overseas.

Increased competition. At the same time, globalization means that our less efficient industries will face increasingly tough competition and some jobs could be lost. Increased competition is a two-sided coin, with both winners and losers. But most American firms are able to move into and compete in foreign markets. Because the U.S. economy is already so competitive, many do this exceptionally well.

International investment. Americans can benefit from investments made abroad. Many workers' pension plans are enriched by overseas investments. In addition, America attracts more foreign investment than any other country. When foreign firms build plants in the U.S., jobs are created. Americans also benefit from the innovations that foreign firms bring to the U.S., which have included new technologies and leaner production techniques, such as the ''just in time'' delivery systems.

The big risk of increased international investment is that it can lead to instability in financial markets. As we have seen in the Asian financial crisis, money that can move into a country very quickly can move out just as fast.

CRITICISMS

Many people have fears about globalization. The most common concerns are three:

First, globalization produces a ''race to the bottom'' on labor standards. As the news stories on working conditions abroad indicate, there can certainly be problems as good jobs in this country are replaced by jobs in developing countries in which workers have few labor protections. Yet a global economy strengthens jobs in the most dynamic, highest paying sectors of our economy, like exports. Within the U.S., jobs in export-related industries pay, on average, 15% more than other jobs.

The experience of Latin America over the last forty years is instructive: those countries that built tariff barriers to protect local industries and workers began to suffer low growth and falling wages. By contrast, countries elsewhere that opened themselves up more are considered success stories today in terms of labor standards.

Second, globalization weakens environmental standards When nations become wealthier, they begin to pay more attention to environmental issues. As with labor standards, several decades of experience demonstrate that those countries which have