

a comprehensive legislative solution that protects workers. Currently, congressional delay protects corporate interests while leaving rank and file workers at risk. I wish to reverse that dynamic.

I believe that it is a matter of simple fairness that corporate insiders should not have greater freedom to sell their stock than the freedom that those insiders decide to grant to their employees.

#### ELIMINATE TAX SUBSIDIES FOR INACCURATE ACCOUNTING

The Wall Street Journal in an article on Monday, January 14, noted that "some of the world's leading banks and brokerage firms" provided Enron with crucial help in creating the intricate—and, in crucial ways, misleading—financial structure that fueled the energy trader's impressive rise but ultimately led to its spectacular downfall."

The article failed to note that tax lawyers also provided crucial assistance by their creation of hybrid instruments that are treated as equity for shareholder reporting but are treated as debt for tax purposes. Those instruments permit companies, in effect, to borrow money with tax deductible interest while excluding the borrowing from total liabilities when reporting to shareholders.

Companies use these hybrid instruments, rather than traditional borrowing, only because the hybrid instruments permit the company to understate its liabilities when reporting to shareholders. The hybrid instruments typically have greater underwriting costs and interest rates than those that would have occurred on a traditional borrowing.

Enron used these instruments to a fairly large extent. The footnotes to the balance sheet in Enron's last financial statement disclosed that it had somewhere between \$700 million and \$2 billion of these instruments. In addition, press reports indicate that Enron also had at least an additional \$1.2 billion of these transactions that were not disclosed in the financial statement.

In 1996 and 1997 the Clinton administration proposed eliminating tax deductions for interest on debt instruments when the corporation showed the instruments as equity on its books. If the congressional Republicans had permitted action on that budget proposal, we might not have seen the spectacular rise and collapse of Enron.

My bill would deny the deduction for interest on instruments that the company treats as debt for tax purposes but does not include in its liabilities when it reports to shareholders. The bill would apply only when the proceeds of the borrowing are included in the assets of the corporation for shareholder reporting purposes. Therefore, it does not apply to borrowings by off-balance sheet entities where both the liability and the proceeds of the liability are not shown on the company's balance sheet. The bill only applies to corporations that file certified financial statements with the SEC, and it is prospective.

Providing workers with the right to freely transfer employer stock is not sufficient if the employer's financial statements do not accurately reflect the company's financial position. I do not understand why the tax laws should subsidize companies attempting to hide liabilities when reporting to shareholders.

I am open to other ideas and solutions. I welcome additional suggestions and promise to work with any Member of Congress who want to protect workers and shareholders. I

urge that we move quickly to provide some protections now while we study additional measures we may wish to undertake in the future.

### THE INTRODUCTION OF THE ENRON EMPLOYEE PENSION RECOVERY ACT

#### HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 2002*

Ms. WATERS. Mr. Speaker, today I rise to introduce the Enron Employee Pension Recovery Act. This legislation will enable Enron employees who lost their retirement savings to recover more of their lost assets.

When the Securities and Exchange Commission brings an action against a company or individual, any ill-gotten gains are placed in a disgorgement fund, and the proceeds are distributed to the victims of the wrongdoing. It is very likely that the disgorged profits of Enron executives will not begin to cover the losses experienced by Enron employees.

These employees were encouraged to heavily invest in Enron stock, and were not permitted to divest when the stock value was plummeting. My legislation would provide that the Enron disgorgement fund contain not only the disgorged profits of the wrongdoers, but also any civil penalties that are levied. In addition, my bill alters the Federal Election Campaign Act to permit elected officials to contribute to this fund from their campaign accounts. In this way, the hundreds of thousands of dollars that were contributed by the officers of Enron can be used to benefit the employees.

My legislation would work within an existing structure to ensure that real relief is granted to these employees who lost both their jobs and their retirement savings while the officers and directors profited. In addition, the staggering sums that were contributed to politicians by the officers and directors of Enron, can be redirected to benefit these employees. I urge all of my colleagues to join me by cosponsoring the Enron Employee Pension Recovery Act.

#### A TRIBUTE TO REVEREND BARBARA CRAFTON

#### HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 2002*

Mr. NADLER. Mr. Speaker, I rise today to honor Rev. Barbara Crafton, Rector of St. Clement's Episcopal Church in New York City, for her consummate service to the Hell's Kitchen community. During her 6 years at St. Clement's, Rev. Crafton has consistently and passionately served this community with grace and compassion. As a member of the Mayor's Office of Midtown Enforcement and a member of the Board of Directors of Integrity, an organization of gay and lesbian Episcopalians, Mother Crafton is an extremely valued and well-respected community leader.

In response to the tragic events of last year, Rev. Crafton has been an active volunteer at Ground Zero, providing meals and ministering

to the needs of rescue workers. Included among the many programs and events initiated by Rev. Crafton is "A Celebration of Heroism and Strength," which benefited the families of the heroes of September 11. In addition to providing unwavering support to her community, Mother Crafton is also a nationally acclaimed author, actress and director.

Barbara Crafton is a passionate, empathetic, and caring priest as well as a devoted and loving mother, wife, and grandmother. Her dedication to our community has been felt far from the confines of St. Clement's. Due to issues of health it is no longer possible for Rev. Crafton to serve as the Rector of St. Clement's. We know that the recuperation of Mother Crafton is of the utmost importance at present, and we wish her a full recovery and the best of luck in all her future endeavors.

#### AWARDING A CONGRESSIONAL GOLD MEDAL TO SAMMY DAVIS, JR.

#### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 2002*

Mr. HASTINGS of Florida. Mr. Speaker, Sammy Davis, Jr., was more than a brilliant entertainer, he was a showbiz iconoclast—a breaker of barriers and a man who proved that talent, sheer talent, is the measure of greatness.

Mr. Speaker, Sammy Davis, Jr., has left behind a rich body of work, such as his legendary "Candy Man", from his various film credits—including his portrayal of Sportin' Life in the 1959 film "Porgy and Bess" and his role as a veteran hooper in his last move "Tap" in 1989. Also to his credits can be added some 40 albums and appearances in more than 20 films.

Mr. Speaker, Sammy Davis, Jr., was a versatile and dynamic singer, dancer, and actor who for over 60 years overcame extraordinary obstacles to become a leading American entertainer. He will forever be missed and remembered for years to come.

#### AMERICA'S NEED FOR MISSILE DEFENSE

#### HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 2002*

Mr. SCHAFFER. Mr. Speaker, though America boasts the world's most lethal and sophisticated military, the U.S. is unable to defend itself against even one long-range ballistic missile. Should an offensive missile launch be perpetrated against America today, the public could only stand by helplessly as each missile streaks toward its target. In the case of a nuclear attack, the devastation would be unlike anything the world has ever seen.

This reality should be the cause for prudent action, not hysteria. The recent decision by President George W. Bush to withdraw the United States from the 1972 Anti-ballistic Missile (ABM) Treaty was a thoughtful, balanced decision, however overdue. The ABM Treaty was conceived under different international circumstances with a country that no longer exists.