

GA. In the process, he has consoled thousands of grieving friends, spouses, relatives, and children as they work through the most difficult moments of their lives.

The involvement by Parnick Jennings in our society and his community, however, have not ended at the doors of his business. After graduating from the University of Tennessee, he served with the U.S. military during the Korean war. Since then, he has been involved in many civic groups such as the Rome Kiwanis Club, where he is a charter member, and the Floyd County Baptist Association, where he served as a Brotherhood Director.

Mr. Jennings has also served his community on the Shorter College Board of Trustees, and the Southern Baptist Sunday School Board of Trustees. In all that he has done, he has given freely of his time and energy to make north-west Georgia a better in which place to live and work.

I join a grateful community in offering a sincere thanks for a lifetime of devotion to others exemplified by Parnick Jennings.

RECOGNITION OF DONNA
GALBRAITH AND GERRY SCHULTZ

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1999

Mr. BONIOR. Mr. Speaker, over the last ten years, a tradition has been established in the Port Huron Community. This December will mark the tenth anniversary of the Nutcracker Ballet Theater's production of the timeless Christmas classic "The Nutcracker". Friends and fans of the production are gathering tonight to honor the heart of the theater company—Donna Galbraith and Gerry Schultz.

These two individuals have given tirelessly to the community. It is through their vision and commitment, that the Nutcracker Ballet has become the can't miss event of the holiday season in Port Huron.

Donna and Gerry have made the Nutcracker a part of their lives, and used it to touch the lives of so many others. Without their leadership and direction, the production simply would not be possible. They have brought together dancers from across the region, many of whom have moved on to participate in nationally recognized dance troupes. Donna and Gerry have taken a personal role in the development of thousands of young people in our community. Through rehearsals, training, and character building, they have made their presence felt beyond the stage and into the day to day lives of so many children and families.

The Blue Water Area is a better place because of the leadership and dedication of Donna Galbraith and Gerry Schultz. Every town in America needs a Donna and Gerry of its own to remind them of the wonderful joy that the work of two individuals can bring to an entire region.

I ask you all to join me today in recognizing the dedication of Donna Galbraith and Gerry Schultz as they bring the true spirit of the holidays to Port Huron once again.

THE SMALL BUSINESS FRANCHISE
ACT OF 1999

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1999

Mr. COBLE. Mr. Speaker, I rise today to reintroduce the Small Business Franchise Act of 1999.

In the closing days of the 105th Congress, Congressman CONYERS and I introduced similar legislation aimed at leveling the playing field in the business relationship between corporations that sell franchises and the small businessmen and women who invest in them. Franchise businesses represent a large and growing segment of our nation's retail and service businesses and are rapidly replacing more traditional forms of small business ownership in our economy. As a result, franchise owners have become the heart and soul of America's economic engine and the backbone of local commerce.

The franchisor/franchisee relationship is fundamentally an economic one where the objective of each party is to make money. Capitalism at its best one would think. Unfortunately, that is where the mutuality ends. In the context of a means to an end, the interests of the franchisee and franchisor are not always the same. For instance, because the parent corporations collect royalties on sales, not profits, it is in the economic interest of the corporate franchisor to open more outlets, even if it is at the expense of an existing franchisee. It is exactly this type of activity that has brought us here today.

As a conservative Republican who supports smaller government and less regulation, many people have asked why I support franchise legislation. First of all, this legislation is not about bigger government and more regulation—it is about protecting freedom. The freedom for small business entrepreneurs to contract fairly, honestly, and without fear of retribution. Second, the Constitution provides Congress with the authority to regulate interstate commerce which Congress has already done for some franchisees by enacting the Petroleum Marketers Act and the Automobile Dealers Day in Court Act. I believe the time has come to apply these same standards to all franchise business relationships.

One of the key provisions of this legislation applies the Duty of Good Faith and Fair Dealing to the franchise relationship. One would think that this obligation is inherent in all contractual relationships, however, because there has been inconsistency in judicial interpretation, clarification is needed. The Duty of Good Faith provision requires both the franchisor and the franchisee to act in good faith in its performance and enforcement of the contract. A Duty of Good Faith obligates each party to do nothing that would have the effect of destroying or injuring the right of the other party to obtain and receive the expected fruits of the contract. If the franchisees are willing to apply this provision to themselves, why are the franchisors unwilling to do the same?

There is also great concern among franchisees about monopolistic behavior among franchisors with respect to sourcing re-

quirements. Many franchise contracts require franchisees to purchase equipment, fixture, supplies, goods and services directly from the franchisor or its subsidiary, thus eliminating competition from the system and driving up costs for the franchisees and ultimately the consumer. Under this legislation, competition would be injected into the procurement process, ultimately lowering costs for everyone. Along these same lines, franchisors would also be required to disclose any rebates, commissions, payments or other benefits resulting from the mandated sourcing requirement imposed on the franchisees. These kinds of "kickback" have been illegal in other industries for years, and the time has come to shine the light of day on these long-standing franchisor abuses.

During the past 20 years, there has been tremendous change in the franchising industry, and as a result, I believe the time has come for Congress to examine this issue and level the playing field for small business franchisees across our great nation. The legislation that I introduce today, along with my distinguished colleague from Michigan, Congressman JOHN CONYERS, addresses the fundamental and necessary safeguards that this industry so desperately needs. This legislation, like the Automobile Dealers Day in Court Act and the Petroleum Marketing Practices Act, rights the imbalance that has existed for too long in the franchisor/franchisee relationship.

PERSONAL EXPLANATION

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1999

Mr. GARY MILLER of California. Mr. Speaker, on Monday, November 8, I was inadvertently detained and unable to vote on the following measures:

Rollcall No. 574, recognizing the generous contribution made by each living person who has donated a kidney to save a life;

Rollcall No. 575, amending the Ethics in Government Act of 1978 to reauthorize funding for the Office of Government Ethics; and

Rollcall No. 576, recognizing and honoring Payne Steward and expressing the condolences of the House of Representatives to his family on his death and to the families of those who died with him.

Had I been present, I would have voted "aye" on rollcall Nos. 574, 575, and 576.

HONORING AGNES FUSS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1999

Mr. GORDON. Mr. Speaker, I rise today to honor Mrs. Agnes Fuss for her years of service to her country and her community. "Miss Agnes" is the person in the Upper Cumberland area of my district call when they need help.

Perhaps because she is a federal retiree, she is especially good at providing assistance