

Training Preston M. Taylor Jr. presented Congressman G.V. (Sonny) Montgomery, "Mister Veteran", with the Veterans Employment Award at the Department of Labor's 15th Annual Salute to All American Veterans, in Washington, DC.

The award, created by the Veterans' Employment and Training Service, will be presented annually in Congressman Montgomery's honor to a veterans' advocate as part of future Salute ceremonies. The agency will use the high standard of advocacy set by "Mr. Veteran" himself to judge those who follow in receipt of this commemorative award.

In recognizing Congressman Montgomery, Secretary Taylor noted that since next year the 104th Congress would have adjourned before Veterans's Day, the Department of Labor's Veterans' Employment and Training Service wanted to recognize at this Salute ceremony the contributions Mr. Montgomery has made to veterans in general and to the agency in particular.

The Salute ceremony program of events included a brief sketch of the honoree's biographical highlights and a letter from President Clinton expressing his deep appreciation to Sonny Montgomery for all he has done on behalf of America's veterans.

Secretary Taylor observed that Mr. Montgomery regards the men and women of the armed forces almost as family members whose interests he had tried to protect and advance from his strategic committee positions. Also, as a lawmaking guardian, Mr. Montgomery is known to be caring but stern, and will invest all his energies to protect and expand benefits he believes veterans have coming to them. Taylor said that his special presence for all veterans, reservists, and National Guard members will be missed.

#### STATEMENT OF REPRESENTATIVE JOSEPH P. KENNEDY II, NOVEMBER 20, 1995

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, today I am introducing the Mom and Pop Protection Act. The Mom and Pop Protection Act provides low-cost loans for the installation of security-related features in a convenience store. Under this act, MAPPA money would be made available for small businesses to make crime-fighting improvements that may have been unaffordable in the past.

This bill is aimed at helping mom and pop convenience stores create a safer workplace for clerks and employees who have all too often been the victims of armed robbery and violence.

We have seen crime against convenience stores rise by 38 percent nationally. Too many clerks in our neighborhood convenience stores have faced criminals who have threatened their lives at gunpoint. These criminals often prey on stores that lack the means to install the security devices this legislation makes affordable.

The act makes the installation of video-surveillance cameras and cash lockboxes possible for small businesses who could not otherwise afford such equipment.

This legislation offers the small business owner an opportunity to install equipment that has been proven to reduce crime against convenience stores. Installation of these features

has been shown to reduce crime against convenience stores by 20 percent.

Mr. Speaker, the Mom and Pop Protection Act is a probusiness approach to fighting crime. It offers small business owners the opportunity to take advantage of crime prevention methods that larger, better financed convenience stores already have in place.

#### INTELLECTUAL PROPERTY ANTITRUST PROTECTION ACT OF 1995

s owners the opportunity to take advantage of crime prevention methods that larger, better financed convenience stores

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. HYDE. Mr. Speaker, today I am introducing the Intellectual Property Antitrust Protection Act of 1995. I am pleased to be joined by my colleagues on the Judiciary Committee, Mr. MOORHEAD, Mr. SENSENBRENNER, Mr. GEKAS, Mr. COBLE, Mr. SMITH of Texas, Mr. CANADY, Mr. BONO, Mr. BRYANT of Tennessee, and Ms. LOFGREN who are original sponsors of this legislation.

Because of increasing competition and a burgeoning trade deficit, our policies and laws must enhance the position of American businesses in the global marketplace. This concern should be a top priority for this Congress. A logical place to start is to change rules that discourage the use and dissemination of existing technology and prevent the pursuit of promising avenues of research and development. Some of these rules arise from judicial decisions that erroneously create a tension between the antitrust laws and the intellectual property laws.

Our bill would eliminate a court-created presumption that market power is always present in a technical antitrust sense when a product protected by an intellectual property right is sold, licensed, or otherwise transferred. The market power presumption is wrong because it is based on false assumptions. Because there are often substitutes for products covered by intellectual property rights or there is no demand for the protected product, an intellectual property right does not automatically confer the power to determine the overall market price of a product or the power to exclude competitors from the marketplace.

The recent antitrust guidelines on the licensing of intellectual property—issued jointly by the antitrust enforcement agencies, the Department of Justice and the Federal Trade Commission—acknowledge that the court-created presumption is wrong. The guidelines state that the enforcement agencies "will not presume that a patent, copyright, or trade secret necessarily confers market power upon its owner. Although the intellectual property right confers the power to exclude with respect to the *specific* product, process, or work in question, there will often be sufficient actual or potential close substitutes for such product, process, or work to prevent the exercise of market power." Antitrust Guidelines for the Licensing of Intellectual Property dated April 6, 1995 at 4 (emphasis in original).

For too long, Mr. Speaker, court decisions have applied the erroneous presumption of market power thereby creating an unintended conflict between the antitrust laws and the intellectual property laws. Economists and legal scholars have criticized these decisions, and

more importantly, these decisions have discouraged innovation to the detriment of the American economy.

The basic problem stems from Supreme Court and lower Federal court decisions that construe patents and copyrights as automatically giving the intellectual property owner market power. *Jefferson Parish Hospital District No. 2 v. Hyde*, 466 U.S. 2, 16 (1984); *United States v. Loews, Inc.*, 371 U.S. 38, 45 (1962); *DeLoe Corp. v. Data General Corp.*, 734 F.2d 1336, 1342 (11th Cir. 1984), cert. denied, 473 U.S. 908 (1984). To be sure, some courts have also refused to apply the presumption despite the Supreme Court's rulings. *Abbott Laboratories v. Brennan*, 952 F.2d 1346, 1354–55 (Fed. Cir. 1991), cert. denied, 505 U.S. 1205 (1992); *A.I. Root Co. v. Computer/Dynamics, Inc.*, 806 F.2d 673, 676 (6th Cir. 1986). As the guidelines note, the law is unclear on this issue. Antitrust Guidelines for the Licensing of Intellectual Property dated April 6, 1995 at 4 n. 10. This lack of clarity causes uncertainty about the law which, in turn stifles innovation and discourages the dissemination of technology.

For example, under Supreme Court precedent, tying is subject to per se treatment under the antitrust laws only if the defendant has market power in the tying product. However, the presumption automatically confers market power on any patented or copyrighted product. Thus, when a patented or copyrighted product is sold with any other product, it is automatically reviewed under a harsh per se standard even though the patented or copyrighted product may not have any market power. As a result, innovative computer manufacturers may be unwilling to sell copyrighted software with unprotected hardware—a package that many consumers desire—because of the fear that this bundling will be judged as a per se violation of the prohibition against tying. The disagreement among the courts only heightens the problem for corporate counsel advising their clients as to how to proceed. Moreover, it encourages forum shopping as competitors seek a court that will apply the presumption. Clearly, intellectual property owners need a uniform national rule enacted by Congress.

Very similar legislation, S. 270, passed the Senate four times during the 101st Congress with broad, bipartisan support. During the debate over that legislation, opponents of this procompetitive measure made various erroneous claims about this legislation—let me dispel these false notions at the outset. First, this bill does not create an antitrust exemption. To the contrary, it eliminates an antitrust plaintiff's ability to rely on a demonstrably false presumption without providing proof of market power. Second, this bill does not in any way affect the remedies, including treble damages, that are available to an antitrust plaintiff when it does prove its case. Third, this bill does not change the law that tying arrangements are deemed to be per se illegal when the defendant has market power in the tying product. Rather, it simply requires the plaintiff to prove that the claimed market power does, in fact, exist before subjecting the defendant to the per se standard. Fourth, this bill does not legalize any conduct that is currently illegal.

Instead, this bill ensures that intellectual property owners are treated the same as all other companies under the antitrust laws, including those relating to tying violations. The bill does not give them any special treatment,

but restores to them the same treatment that all others receive.

In short, the time has come to reverse the misdirected judicial presumption. We must remove the threat of unwarranted liability from those who seek to market new technologies more efficiently. The intellectual property and antitrust laws should be structured so as to be complementary, not conflicting. This legislation will encourage the creation, development, and commercial application of new products and processes. It can mean technological advances which create new industries, increase productivity, and improve America's ability to compete in foreign markets.

I urge my colleagues in the House to join us in cosponsoring this important legislation.

### LIES, LIES, AND MORE LIES

#### HON. BARBARA-ROSE COLLINS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 20, 1995*

Miss COLLINS of Michigan. Mr. Speaker, let's stop the lies. Every time a Member gets up on this floor and says that Democrats don't want a balanced budget, that's a lie. We all want a balanced budget, it's just a question of who's burdened with the cuts required to balance that budget. Stop the lies.

Every time a Member gets up on this floor and says that Medicare is not being cut. That's a lie. The rate of growth in Medicare spending is being reduced. That's a cut. Stop the lies.

Anytime you want to balance a budget, you don't increase spending on defense, you don't give certain people in our society a tax break, you don't continue corporate welfare that costs the taxpayers more money than all of the social welfare put together. That doesn't really sound like somebody who is serious about balancing a budget. That sounds more like someone who is using the budget debate to make a wholesale shift in this nation's spending priorities, no matter who it hurts.

Stop the lies.

#### JIM PRESBREY'S BLADE ACROSS AMERICA

#### HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 20, 1995*

Mr. EHRLICH. Mr. Speaker, today I rise to commend a man who has made a long and hard journey across the country to give disadvantaged children an opportunity to participate in sports. Jim Presbrey—whose family has long ties to my district—spent the past several months in-line skating across the country to raise money for the National Youth Sports Program, an organization which provides economically under-privileged children with sports training, free medical care, and proper nutrition education.

Jim decided to blade across America while working as a National Youth Sports Program summer camp counselor and drug and alcohol educator. As a counselor, Jim instilled in his campers the importance of achieving goals, striving for your dreams, and believing in your-

self. At the same time, Jim, recovering from major knee surgery, began riding his stationary bike for 10 minutes a day, slowly increasing his workout throughout the summer. He told his campers that his ultimate goal was to skate across America. Each day, he informed his campers of his continuing progress. At the end of the summer, Jim knew he had to blade across America to show his campers the importance of achieving their aspirations.

On September 9, 1995, Jim began his long journey across the country, hoping to raise awareness and increase funding for the kids he worked with during the summer. After raising thousands of dollars for the National Youth Sports Program, Jim's blade across the Nation will come to an end in San Diego, CA, on November 27, 1995. He will be the first person to in-line skate across the United States.

I urge all my colleagues to join with me and the citizens of Maryland in commending Jim Presbrey in his achievement. The example set by and money raised by his physical endurance and dedication will give thousands of disadvantaged children across the Nation the opportunity to participate in sports.

#### GBS AWARENESS: IN MEMORY OF COOPER HENNING ARMSTRONG

#### HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, November 20, 1995*

Mr. BONIOR. Mr. Speaker, I rise today to discuss a health care issue that is devastating to many American families. Group B Streptococcus, known as GBS, is a bacteria that is the No. 1 cause of life threatening infections in newborn babies. A good friend's sister and her husband tragically lost their 2 day old baby, Cooper Henning Armstrong, to GBS this past summer.

Pregnant women are routinely screened for illnesses such as rubella and spina bifida; however, GBS infections are far more common. Despite being generally unknown to the public, an estimated 15 percent to 35 percent of all healthy, adult women carry the GBS bacteria. Babies usually acquire GBS infections during childbirth when they come in direct contact with bacteria carried by the mother. Limited public knowledge and the lack of standardized testing procedures lead to the deaths of 2,000 babies a year. Some 12,000 infants will contract infections, many of whom will suffer permanent handicaps such as loss of sight and hearing, lung damage, learning disabilities, and mental retardation.

Despite America's wealth, at least 26 nations have lower infant mortality rates than the United States. As the richest country in the world spending more on health care than any other nation, GBS illnesses and deaths are largely an unnecessary tragedy. In fact, the Centers for Disease Control [CDC] state that it is cost effective to routinely screen pregnant women for GBS. The American Academy of Pediatrics recommends that all pregnant women should be screened.

GBS is preventable. However, since the incidence of GBS infections may vary widely and because of differing opinions in the medical community, there is virtually no education offered to prenatal patients. The CDC recommends that "state or local health depart-

ments or groups of affiliated hospitals should consider establishing surveillance systems for neonatal GBS disease or reviewing data from existing systems to identify the current magnitude of disease and provide further information for evaluating the effectiveness of prevention measures."

I ask that my colleagues join with me in helping educate the public about this serious disease. We must encourage open communication between all health care providers and help coordinate the needed consensus to prevent GBS.

Cooper Henning Armstrong's short life need not be in vain. His parents, Laura and Brad Lee Armstrong, have turned their grief into action so that others need not endure the pain they suffer. I admire their courage and I am inspired by their concern for all who wish to become parents. May their efforts, in memory of their son Cooper, be completed.

#### PROHIBITION ON FUNDS FOR BOSNIA DEPLOYMENT

SPEECH OF

#### HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 17, 1995*

Mr. GEPHARDT. Mr. Speaker, I urge my colleagues to defeat this bill, which is nothing less than a dagger in the heart of the Bosnian peace process.

In fact, this bill is without historical precedent. Never before has Congress banned U.S. involvement in a peacekeeping effort—before peace was even secured. And this is no time to start.

There is no one who believes more strongly than I that Congress must have a vote on any deployment of United States troops in Bosnia. But that's not what this vote is about. The President has already promised us that vote—after a peace agreement is in place.

What this bill does is something more destructive. It undermines the very fragile—and until now, very successful—peace talks that are occurring in Dayton, OH.

Is there a single Member of this body who really wants to damage those talks? Who is willing to put his name on a bill that would pull the rug out from under our negotiators, and give both sides the incentive to continue the bloodshed, the killing, the age-old animosities?

Our Secretary of State has said that this vote: "could be misinterpreted and give the parties reason for delay and hesitation."

The Washington Times has urged the Republican Members of this House not to take this vote today, "before there is even something to vote on," because doing so would have "repercussions among our allies, our foes, and our trading partners." Is that what we want?

Do we want to tell the Serbs and the Moslems that our negotiators didn't have the support of the Congress, or the country? That we're ready to revoke their promises before they are even made?

Let's remember our ultimate goal in Bosnia: to finally stop the death and destruction. To end some of the worst atrocities since World War II. To stand up for peace throughout Europe.

It's right for America to do this, because if we don't lead the world, no one else will.