Coast, and 86% of the plastics storage capacity in the Texas/Louisiana Gulf region. I understand that the proposal includes a trackage rights agreement with Burlington Northern Santa Fe (BNSF) to address this issue.

On the other hand, Conrail has submitted a proposal to purchase the lines referred to as SP East, i.e., the lines from Chicago through St. Louis to Houston, the line from New Orleans to El Paso as well as lines to Dallas/Fort Worth, Eagle Pass, Brownsville and Memphis.

There are clear advantages of having a railroad own the line as opposed to having a railroad operate over another company's line. First, owners of rail lines will have every incentive to invest in track and work with the local communities to attract economic development. In addition, owners who control the service they provide, i.e. its frequency, reliability and timeliness. Finally, an owning railroad offers the best opportunity to retain employment for railroad workers who would otherwise be displaced by the proposed merger.

I support Conrail's proposal and urge you to carefully review it as you consider the UP–SP merger application. I believe it addresses many of the issues raised with respect to the merger's impact on cities like Memphis.

I look forward to hearing from you.

Sincerely,

BOB CLEMENT,
Member of Congress.

CONGRESS OF THE UNITED STATES,
Washington, DC, May 15, 1996.

Re finance docket 32760.

Hon. VERNON A. WILLIAMS,
Secretary, Surface Transportation Board, 12th Street and Constitution Avenue
Washington, DC.

DEAR SECRETARY WILLIAMS: I am writing in regard to an application pending before you that seeks approval of a merger between the Union Pacific Railroad (UP) and Southern Pacific Lines (SP). I am very concerned that the merger of these two railroads will significantly reduce rail competition and result in higher rates for shippers and consumers.

As proposed, the merger would grant UP control over a reported 90% of rail traffic in to and out of Mexico, 70% of the petrochemical shipments form the Texas Gulf Coast, and 86% of the plastics storage capacity in the Texas/Louisiana Gulf region. UP acknowledges that the merger would greatly reduce rail competition and proposes a trackage rights agreement with Burlington Northern Santa Fe (BNSF) as the solution. A trackage rights agreement, however, does not solve the problem as the several sets of changes in the agreement attest.

Owners of rail lines have incentives to invest in track and to work with local communities to attract economic development. Owners have control over the service they provide—its frequency, its reliability, and its timeliness. None of these things can be said about railroads that merely operate over someone else's tracks, subject to someone else's control, and required to pay the owner for every carload of traffic the tenant moves. An owning railroad, faced with none of these difficulties, and having major incentives to develop traffic for the line, can be more readily and consistently counted on to provide quality service and investment that is the best solution for shippers, communities, and economic development.

Conrail has offered to purchase the lines referred to as SP East, i.e. the lines from Chicago through to Houston, the line from New Orleans to El Paso as well as lines to Dallas/Fort Worth, Eagle Pass, Brownsville and Memphis. An offer from an owning railroad such as has been proposed by Conrail represents the best opportunity to preserve competition, enhance economic development potential, and save jobs.

For these reasons, I urge the Board to oppose UP/SP merger unless it is conditioned on a property-owning divestiture plan such as the one put forth by Conrail.

Sincerely,

EDDIE BERNICE JOHNSON,
Member of Congress.

CONGRESS OF THE UNITED STATES,
Washington, DC, May 21, 1996.

Re finance docket 32760.

Mrs. LINDA J. MORGAN,
Chairman, Surface Transportation Board,
Washington, DC.

DEAR CHAIRMAN MORGAN: I am writing regarding the proposed Union Pacific (UP) and Southern Pacific (SP) merger.

The UP-SP merger will create one of the largest railroads in the world. While I do not have a problem with this concept, I am concerned that if this transaction is approved in its current form it will have severe consequences. Specifically, data I have reviewed supports arguments that the UP-SP merger, as proposed, is not in the public interest and will result in the loss of thousands of jobs nationally.

Furthermore, some of the proposals to address the anti-competitive aspects of the merger appear to unfairly discriminate against Northeastern Ohio, negatively impacting its economy and employment. I am troubled by this and believe a solution in the national interest can be reached without discriminating against the State of Ohio.

One such solution may be Conrail's proposal to purchase lines which have been referred to as SP East. I believe a proposal of this nature is the best way to ensure competition, boost economic growth and preserve jobs.

With this in mind, I respectfully request that the Surface Transportation Board give every consideration to conditioning approval of the UP-SP on a property-owning divestiture plan to ensure that this merger will be an equitable one in the national interest.

Sincerely,

STEVEN C. LATOURETTE,
Member of Congress.

SUSPEND TARIFF ON PARA ETHYL PHENOL

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1996

Mr. SPRATT. Mr. Speaker, today I am introducing legislation to suspend for 3 years the tariff on a chemical called Para ethyl phenol (PEP—HTS–2907.19.20 00). This bill is critical to saving the jobs of 50 of my constituents who work at Hodgson Chemicals, Inc., in Rock Hill, SC.

The Hodgson plant produces two chemicals called Butylated hydroxy ethyl benzene [BHEB] and Mono butyl ethyl phenol [MBEP]. PEP is a critical component in producing both BHEB and MBEP. Enactment of the bill will ensure that Hodgson can compete against a Japanese company which is the only other manufacturer of BHEB. BHEB is used as an antioxidant in low and high density polyethylene and is sold to chemical producers. MBEP is used as an intermediate to produce an antioxidant. Hodgson informs me that there are no domestic sources for Para ethyl phenol [PEP]. Hodgson must therefore import and pay a 10.7 percent tariff on all the PEP it uses. This extra cost is reflected in the retail price Hodgson charges for BHEB and MBEP. The cost is substantial since over 50 percent of the finished product for both BHEB and MBEP is PEP.

The Japanese company exports BHEB to the United States, but not the PEP itself. This means that it avoids a tariff on PEP and therefore enjoys a significant cost advantage over Hodgson. Unless the tariff suspension is passed, Hodgson may be forced to discontinue production of BHEB and MBEP.

Hodgson plans on beginning production in the United States of PEP within 3 years. That is why Hodgson is only seeking a 3-year tariff suspension. Although I do not believe the cost of this suspension is great, we will be seeking a cost estimate from CBO to determine the bill's price tag. We will also seek to confirm that there are no domestic sources at present for PEP. Assuming that the only sources for PEP are foreign and that the cost is modest, I hope that the Congress will pass this bill in a timely manner. The jobs of many of my constituents depend on it.

INTERNATIONAL FESTIVAL OF ARTS AND IDEAS

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1996

Ms. DELAURO. Mr. Speaker, I would like to congratulate my hometown of New Haven, CT, on the occasion of the first annual International Festival of Arts and Ideas.

The festival brings together performers and thinkers from across the region and around the world to showcase the arts and discuss the ideas intertwined with such outstanding creativity. The festival includes drama, music, storytelling, dancing, and magic for children; discussions and classes focused on the ideas of the festival; and performance and works by Connecticut artists.

New Haven's cultural riches enable it to host this tremendous festival, a festival that will foster greater appreciation for the arts and will spur discussion throughout Connecticut and the region. Drawing on the historic New Haven Green, internationally renowned Yale University and its many theaters and museums, the Shubert Performing Arts Center, the Audubon Street Arts District, Long Wharf Theatre, and many more treasures, New Haven will come alive to embrace a world of creative performance and thought. The displays and discussions will be highlighted by performers from Connecticut and throughout the world.

I am particularly proud of the public and private partnership that brought the International Festival of Arts and Ideas to New Haven, the arts and cultural capital of Connecticut. Their exceptional support has been matched by individuals who have volunteered their time and energy to guarantee that the more than 75,000 visitors will see the arts, ideas, and Connecticut at their best. Putting Connecticut's best foot forward with the Arts and Ideas Festival will bring people to the region this week and throughout the year.

This is a proud day for Connecticut as we kick off the first annual International Festival of Arts and Ideas. Congratulations.

PERSONAL EXPLANATION

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1996

Mr. BATEMAN. Mr. Speaker, I rise today to inform my constituents of my position on eight rollcall votes I missed on June 10 and 11, 1996, because of the primary election in Virginia's First Congressional District. Had I been present, my votes would have been recorded as follows: Rollcall Nos. 222, ''aye''; 223, ''aye''; 224, ''aye''; 225, ''aye''; 226, ''nay''; 227, ''nay''; 228, ''aye''; 229, ''aye.''

CONSERVATIVE ADVOCATE DEFENDS SUPREME COURT COLORADO OPINION

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1996

Mr. FRANK of Massachusetts. Mr. Speaker, when the U.S. Supreme Court upheld the decision of the Colorado Supreme Court invalidating a Colorado law which put gay men and lesbians at a particular disadvantage with regard to antidiscrimination legislation, a number of people on the right responded with stirring denunciations of the Supreme Court majority. And Justice Scalia wrote an angry and poorly reasoned dissent in which he denounced the majority and misrepresented their decision. I was therefore particularly pleased to read a thoughtful, reasoned defense of the Supreme Court majority opinion which upheld the Colorado Supreme Court's rejection of this law as an unconstitutional effort to impose special burdens on lesbians and gay men, written by Clint Bolick. Mr. Bolick is a very prominent advocate of the conservative position on legal issues, and serves as the Litigation Director at the Institute for Justice in Washington. As the printed article notes, the Institute itself has no position on the Supreme Court decision in this case.

Mr. Bolick's article is an example of intellectual honesty and integrity because as he notes, he does not favor laws that protect gay men and lesbians against discrimination, but unlike many others—on both sides of the ideological spectrum—he does not allow his public policy preference to cloud his analysis of the underlying legal and constitutional principles that are at stake. Because this is an issue of great importance to the country, and because the Supreme Court majority opinion has been so grievously misrepresented by Justice Scalia and by many Members of this body, I ask that Clint Bolick's very sensible discussion be printed here.

[From the Los Angeles Daily Journal, June 4, 1996]

''ROMER'' COURT STRUCK A BLOW FOR INDIVIDUALS AGAINST GOVERNMENT

(By Clint Bolick)

Reaction to the U.S. Supreme Court's opinion striking down Colorado's Amendment 2 predictably was morally charged: Generally those who disapprove of gay lifestyles reviled it; those who don't liked it. The superficial reaction overlooks the decision's deeper implications, which go far beyond gay rights. For the court may have recognized in the Constitution's equal protection guarantee significant new restraints on majoritarian tyranny.

I anticipated the court's ruling in Romer v. Evans with decidedly ambivalent feelings. I hold the classic libertarian position toward gay rights: An individual's sexual orientation is a private matter, and properly outside the scope of governmental concern. But I also cherish freedom of association and believe people should be free to indulge their moral judgments about other people's lifestyles and proclivities, even though I do not share those judgments.

The Amendment 2 case presented a libertarian conundrum. On one hand, Colorado municipalities were adopting gay rights ordinances that interfered with freedom of association, adding sexual orientation to other ''protected categories'' such as race and gender on which private discrimination is prohibited. On the other hand, Amendment 2 singled out gays for hostile treatment under law, rendering them alone incapable of attaining protected-category status through democratic processes.

So in my view the case was a close one. But in the end the Supreme Court's 6-3 majority got it exactly right: Amendment 2 was impermissible class legislation. ''Central both to the idea of the rule of law and to our own Constitution's guarantee of equal protection,'' declared Justice Anthony Kennedy for the majority, ''is the principle that government and each of its parts remain open on impartial terms to all who seek its assistance.''

Noteworthy is what the court did not do. It did not, contrary to some analyses, recognize gays as a ''protected class'' or apply heightened judicial scrutiny. It was the state that defined the class and subjected it to adverse treatment under law.

What the court did was to breathe new life into the equal protection guarantee. Since the New Deal, the court generally has invalidated legislative line-drawing only when it involves a ''suspect classification'' (such as race) or a ''fundamental'' right (such as voting or free speech). Most other governmental classifications need have only a ''rational basis'' to survive judicial scrutiny.

As first-year law students learn, ''rational-basis'' review almost always translates into carte blanche deference to government regulators. That means a green light for nakedly protectionistic laws, particularly in the economic realm.

In recent years, my colleagues and I have managed successfully under the rational-basis standard to challenge the District of Columbia's ban on street-corner shoeshine stands and Houston's anti-jitney law. But challenges to Denver's taxicab monopoly and to Washington, D.C.'s cosmetology licensing scheme on behalf of African hair-braiders were dismissed under rational basis, even though the regulations were aimed at excluding newcomers. For those entrepreneurs, the judicial abdication rendered equality under law a hollow promise.

Such class legislation was of paramount concern to the Constitution's framers, who worried about the power of ''factions'' to manipulate the coercive power of government for their own ends.

The Colorado amendment is a textbook example of class legislation. ''Homosexuals, by state decree, are put into a solitary class with respect to transactions and relations in both the private and governmental spheres,'' Justice Kennedy remarked. Amendment 2 ''imposes a special disability on those persons alone.''

In such instances, reflexive deference to governmental discretion would nullify constitutional freedoms. So the court required the government to show that its classification in fact was rationally related to a legitimate state objective. As Justice Kennedy declared, ''The search for the link between classification and objective gives substance to the Equal Protection Clause.''

In this case, the state justified its classification on grounds of freedom of association and conserving resources to fight discrimination against other groups. But as the court concluded, ''The breadth of the Amendment is so far removed from these particular justifications that we find it impossible to credit them.''

Contrary to Justice Antonin Scalia's dissent, the ruling does not mean the community cannot enforce moral standards. It merely must make its rules applicable to everyone. The state can prohibit various types of conduct, it can refrain from adding gays to the list of specially protected classes—indeed, it can cast its lot with freedom of association and eliminate all protected classes. What it cannot do is to impose a distinctive legal disability upon a particular class, unless it can demonstrate legitimate objectives advanced through rationally related methods.

Nor should equal protection depend on whose ox is gored. The same government that can impose legal disabilities upon gays can inflict them upon veterans, or the disabled, or home-schoolers, or entry-level entrepreneurs, or any other class targeted by those who control the levers of government.

The court's decision in Romer v. Evans is the latest in an important but unremarked trend in which the Supreme Court has revitalized constitutional limits on government power in a variety of contexts. Exhuming the Fifth Amendment's ''takings'' clause, it has protected private property rights against overzealous government regulation. Last term, for the first time in 50 years, it invalidated a federal statute as exceeding congressional power under the interstate commerce clause. It has extended First Amendment protection to religious and commercial speech. And under the equal protection clause, it has sharply limited government's power to classify and discriminate among people on the basis of race.

Alexis de Tocqueville observed that ''the power vested in the American courts of pronouncing a statute to be unconstitutional forms one of the most powerful barriers that have ever been devised against the tyranny of political assemblies.'' Largely unheralded, the current Supreme Court has become a freedom court. Though comprising shifting majorities, the court seems quietly to be constructing a constitutional presumption in favor of liberty—precisely what the framers intended.

PITFALLS OF THE MEDIA BUSINESS IN ASIA

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1996

Mr. DIXON. Mr. Speaker, I rise to share with my colleagues the recent remarks of Marc Nathanson of Los Angeles, who was confirmed in August 1995 as a member of the Broadcasting Board of Governors of the United States Information Agency. Mr. Nathanson spoke on June 4 at the 1996 Business in Asia Media and Entertainment Conference in Los Angeles. The conference was sponsored by the Asia Society, the national nonprofit educational organization dedicated to increasing