I. Expansion of Federal Jurisdiction to Prosecute Acts of Destruction or Desecration of Places of Religious Worship

The bill replaces subsection (b) with a new interstate commerce requirement, which broadens the scope of the statute by applying criminal penalties if the ''offense is in or affects interstate or foreign commerce.'' H.R. 3525 also adds a new subsection (c), which provides that: ''whoever intentionally defaces, damages or destroys any religious real property because of the race, color, or ethnic characteristics of any individual associated with that religious property, or attempts to do so,'' is guilty of a crime. Section two of H.R. 3525 contains the Congressional findings which establish Congress' authority to amend section 247.

The new interstate commerce language in subsection (b) is similar to that in the general federal arson statute, Title 18, United States Code, Section 844(i), which affords the Attorney General broad jurisdiction to prosecute conduct which falls within the interstate commerce clause of the Constitution.

Under this new formulation of the interstate commerce requirement, the Committee intends that the interstate commerce requirement is satisfied, for example, where in committing, planning, or preparing to commit the offense, the defendant either travels in interstate or foreign commerce, or uses the mail or any facility or instrumentality of interstate commerce. The interstate commerce requirement would also be satisfied if the real property that is damaged or destroyed is used in activity that is in or affects interstate commerce. Many of the places of worship that have been destroyed serve multiple purposes in addition to their sectarian purpose. For example, a number of places of worship provide day care services, or a variety of other social services.

These are but a few of the many factual circumstances that would come within the scope of H.R. 3525's interstate commerce requirement, and it is the intent of the Congress to exercise the fullest reach of the federal commerce power.

The floor managers are aware of the Supreme Court's ruling in *United States* v. *Lopez*, 115 S.Ct. 1624 (1995), in which the Court struck down as unconstitutional legislation which would have regulated the possession of firearms in a school zone. In Lopez, the Court found that the conduct to be regulated did not have a substantial effect upon interstate commerce, and therefore was not within the federal government's reach under the interstate commerce clause of the Constitution.

Subsection (b), unlike the provision at issue in Lopez, requires the prosecution to prove an interstate commerce nexus in order to establish a criminal violation. Moreover, H.R. 3525 as a whole, unlike the Act at issue in Lopez, does not involve Congressional intrusion upon ''an area of traditional state concern.'' 115 S.Ct. at 1640 (Kennedy, J. concurring). The federal government has a longstanding interest in ensuring that all Americans can worship freely without fear of violent reprisal. This federal interest is particularly compelling in light of the fact that a large percentage of the arsons have been directed at African-American places of worship.

Congress also has the authority to add new subsection (c) to section 247 under the Thirteenth Amendment to the Constitution, an authority that did not exist in the context of the Gun Free School Zones Act. Section 1 of the Thirteenth Amendment prohibits slavery or involuntary servitude. Section 2 of the Amendment states that ''Congress shall have the power to enforce this article by appropriate legislation.'' In interpreting the Amendment, the Supreme Court has held that Congress may reach private conduct, because it has the ''power to pass all laws necessary and proper for abolishing all badges and incidents of slavery in the United States.'' *Jones* v. *Alfred H. Mayer Co.*, 392 U.S. 409, 439 (1968). See also *Griffin* v. *Breckinridge*, 403 U.S. 88 (1971). The racially motivated destruction of a house of worship is a ''badge or incident of slavery'' that Congress has the authority to punish in this amendment to section 247.

Section two of H.R. 3525 sets out the Congressional findings that establish Congressional authority under the commerce clause and the Thirteenth Amendment to amend section 247.

In replacing subsection (b) of section 247, H.R. 3525 also eliminates the current requirement of subsection (b)(2) that, in the case of an offense under subsection (a)(1), the loss resulting from the defacement, damage, or destruction be more than $10,000. This will allow for the prosecution of cases involving less affluent congregations where the church building itself is not of great monetary value. It will also enhance federal prosecution of cases of desecration, defacement or partial destruction of a place of religious worship. Incidents such as spray painting swastikas on synagogues, or firing gunshots through church windows, are serious hate crimes that are intended to intimidate a community and interfere with the freedom of religious expression. For this reason, the fact that the monetary damage caused by these heinous acts may be de minimis should not prevent their prosecution as assaults on religious freedom under this section.

H.R. 3525 also amends section 247 by adding a new subsection (c), which criminalizes the intentional destruction or desecration of religious real property ''because of the race, color or ethnic characteristics of any individual associated with that property.'' This provision will extend coverage of the statute to conduct which is motivated by racial or ethnic animus. Thus, for example, in the event that the religious real property of a church is damaged or destroyed by someone because of his or her hatred of its African American congregation, section 247 as amended by H.R. 3525 would permit prosecution of the perpetrator.

H.R. 3525 also amends the definition of ''religious real property'' to include ''fixtures or religious objects contained within a place of religious worship.'' There have been cases involving desecration of torahs inside a synagogue, or desecration of portions of a tabernacle within a place of religious worship. These despicable acts strike at the heart of congregation, and this amendment will ensure that such acts can be prosecuted under section 247.

2. Amendment of Penalty Provisions

H.R. 3525 amends the penalty provisions of section 247 in cases involving the destruction or attempted destruction of a place of worship through the use of fire or an explosive. The purpose of this amendment is to conform the penalty provisions of section 247 with the penalty provisions of the general federal arson statute, Title 18, United States Code, Section 844(i). Under current law, if a person burns down a place of religious worship (with no injury resulting), and is prosecuted under section 247, the maximum possible penalty is ten years. However, if a person burns down an apartment building, and is prosecuted under the federal arson statute, the maximum possible penalty is 20 years. H.R. 3525 amends section 247 to conform the penalty provisions with the penalty provisions of section 844(i). H.R. 3525 also contains a provision expanding the statute of limitations for prosecutions under section 247 from five to seven years. Under current law, the statute of limitations under section 844(i) is seven years, while the statute of limitations under section 247 is five years. This amendment corrects this anomaly.

IV. SEVERABILITY

It is not necessary for Congress to include a specific severability clause in order to express Congressional intent that if any provision of the Act is held invalid, the remaining provisions are unaffected. S. 1890, as introduced on June 16, 1996 contained a severability clause, while the original version of H.R. 3525 which was introduced in the House did not. While the final version of H.R. 3525, as passed by the Senate and the House of Representatives, does not contain a severability clause, it is the intent of Congress that if any provision of the Act is held invalid, the remaining provisions are unaffected.

INTRODUCTION OF LEGISLATION IN SUPPORT OF STATES' RIGHTS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1996

Mr. CRANE. Mr. Speaker, over the past several years, my home State of Illinois has been embroiled in litigation, Pennington versus Doherty, regarding the base period used to determine eligibility for unemployment compensation. The plaintiffs in Pennington have argued that the Federal Government, and not the individual States, should have the right to set those base periods. Their position is diametrically opposed to the common practice recognized as lawful and legitimate for decades. I believe that States should retain this right and that Federal action in this area should not preempt State law. Unfortunately, an appellate court did not agree.

While the outcome of this suit will unquestionably have a significant impact on Illinois, it may also lead to changes across the country, since more than 40 States utilize similar methods for determining eligibility for unemployment compensation. The final ruling could lead to greatly increased costs, both for individual States and the Federal Government. In fact, some have estimated that an unfavorable outcome in this case could increase costs by as much as $750 million over the next 8 years in Illinois alone, and the Congressional Budget Office has estimated that costs to the Federal Government could reach the $3 billion range over that same period. There can be little doubt that if the Pennington suit is successful, other plaintiffs in other States will be lining up to file their suits.

But perhaps even more troubling than the financial impact of this decision is the circumvention and misinterpretation of congressional intent through judicial action. Earlier today, the Ways and Means Subcommittee on Human Resources held a hearing regarding the Pennington case. While a variety of witnesses, including representatives of the administration, expressed various opinions regarding this case, there was unanimity on the fact that Congress intended States to control their own base periods. Despite widespread agreement on that issue, the courts may now redefine the law through judicial fiat.

In order to protect congressional intent and avoid these unnecessary expenditures, I am

today introducing legislation which would simply clarify current law by stating in no uncertain terms that States have the right to set their own base periods and no Federal actions should preempt that right. I hope that my colleagues will join with me in supporting States' rights and in supporting this legislation.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1996

Mr. GUTIERREZ. Mr. Speaker, in the afternoon of Wednesday, July 10, 1996, I was unavoidably absent from this Chamber and therefore missed rollcall, vote No. 295, rollcall vote No. 296; rollcall vote No. 297 and rollcall No. 298—on final passage of the legislative branch appropriations for fiscal year 1997. I want the record to show that if I had been able to be present in this Chamber when these votes were cast, I would have voted ''no'' on both rollcall vote No. 295 and rollcall vote No. 296 and ''yea'' on rollcall votes 297 and 298.

CONGRATULATIONS TO VFW POST 7980

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1996

Mr. COSTELLO. Mr. Speaker, I rise today to pay tribute to the Veterans of Foreign Wars Post 7980, located in Millstadt, IL. The Millstadt post is celebrating its 50th anniversary on July 20, 1996, and I ask my colleagues to join me in congratulating the current and former members for their contributions to the entire community.

I assisted the Millstadt post in securing an M–47 Patton tank in 1989 from the U.S. Department of Defense, and it stands as a reminder of those veterans who have sacrificed a great deal to protect the freedoms we love dearly in the United States of America. It was my privilege to be present at the dedication of the tank in September of that year, and since then it has served as both a tribute and educational tool for the whole region.

The Millstadt post has had a long and distinguished record of service to the community, which we will celebrate on July 20. A variety of post commanders have shepherded the post through several improvements and community projects, including services for local veterans, the purchase of American flag for area events, and a college scholarship program.

I want to congratulate the members of VFW Post 7980 for their continued hard work and dedication to their fellow veterans and their community. Their example stands out as an inspiration to other organizations looking to help their fellow man in our region.

A SALUTE TO BABCOCK AND WILCOX FOR WINNING OHIO'S EXPORTER OF THE YEAR AWARD

HON. THOMAS C. SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1996

Mr. SAWYER. Mr. Speaker, I rise today to honor a company in my district, Babcock and Wilcox [B&W], for recently receiving the State of Ohio's Exporter of the Year Award. This award is given each year to the Ohio company which best exemplifies the State's commitment to international trade. It is especially prestigious since Ohio is a leading export State, based on the number of manufacturers who export goods and services. It is particularly gratifying to see B&W win this award, since it has a proud tradition in Ohio since 1906.

B&W is internationally renowned and respected for its power and steam generation systems and for its environmental control equipment. This company's worldwide reputation as an engineering and advanced technologies leader helped its power generation group to earn a record $558 million in overseas contract awards last year, equaling 63 percent of the group's total sales. A highlight was the sale of 10 of the first sulfur dioxide removal systems ever purchased by South Korea as part of its power expansion program. This was also the largest environmental equipment contract ever awarded by an electric utility. Beyond South Korea, B&W has increased its international presence over the last decade by establishing joint venture operations in China, India, Indonesia, Turkey, Mexico, and Egypt. This international expansion has helped the company stabilize its activities in Ohio and has contributed to its growth in my State.

Mr. Speaker, I recognize B&W's superior work in Ohio, and commend this company for winning the State's Exporter of the Year Award.

CONCERNS ABOUT WETLAND REGULATIONS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1996

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues the following letter to Agriculture Secretary Dan Glickman concerning the increased amount of proposed wetland regulations.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
July 9, 1996.

Hon. DAN GLICKMAN,
Secretary, Department of Agriculture, Washington, DC.

DEAR DAN: While visiting with my constituents, I have been advised of several concerns about wetland regulations, particularly a concern that actions by Federal Agencies with wetland responsibilities and jurisdiction are proposing actions that amount to ''regulatory creep'' by proposing to expand the amount of lands defined as Federally protected wetlands.

I am told that three changes are being considered by the four Federal agencies with wetland responsibilities (USDA, Corps of Engineers, EPA and U.S. Fish and Wildlife Service) that would expand the criteria used in the Federal delineation process by making changes to the 1987 delineation manual and by adopting a functional assessment process known as the hydrogemorphic (HGM) approach.

One of the specific concerns has been that NRCS, without public notice and comment, is expanding its list of field indicators of hydric soils, which in turn would result in an expansion of areas and sites that would meet the hydric soil criteria. Mr. Secretary I want to ask whether it is the view of NRCS that all hydric soils are wetland soils? (I understood that wetland soils are a function of wetland hydrology, and that wetland delineation requires the independent verification of all three wetland criteria—soils, water, and plants.)

Secondly, I am told that the Fish and Wildlife Service is about to enter into an agreement to expand the hydrophytic plant list, also without the benefit of public notice and comment. Is the interagency wetland team recommending that Federal agencies be allowed to delineate wetlands based only upon two criteria (soils and plants) instead of the three essential wetland criteria? Such an action would seem to allow regulators to 'assume' hydrology based on the presence of an expanded list of hydric soil indicators and an expanded list of hydrophytic plants. It is already very difficult for many of my constituents to accept wetlands defined under present rules without wetlands being defined without the apparent presence of water for a significant period of time during the year.

Finally, I am curious about the interagency wetland team's implementation of a new methodology for the functional assessment of wetlands using the hydrogemorphic (HGM) approach. There is a concern that this method would arbitrarily assign functions to various types of wetlands located within a watershed or ecological region by combining the subjective nature of wetlands science with the ambiguity of professional judgment.

Mr. Secretary, I am particularly alarmed by the appearance that no one in the Administration nor the Congress is currently in charge of wetland delineation. With no one designated for a leadership role on this subject I fear that the bureaucracy is once again free to initiate regulatory creep. That would leave the most important regulatory decisions to be accomplished behind the political scene by interagency fiat without public input.

Dan, I would appreciate it very much, and feel more comfortable, if you would take a personal role in overseeing the activities of the interagency wetland group to insure that the general public, including those which would be subject to these regulations, have adequate opportunity for involvement in any changes in wetland regulations.

Thank you very much for your consideration and assistance on this matter.

Best wishes,

DOUG BEREUTER,
Member of Congress.

BIOMEDICAL RESEARCH BENEFITS ALL AMERICANS

HON. RANDY ''DUKE'' CUNNINGHAM,

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1996

Mr. CUNNINGHAM. Mr. Speaker, I rise today in support of the increased funding levels contained in the fiscal year 1997 Labor, Health and Human Services, and Education Appropriations Act for the National Institutes of