EXTENSIONS OF REMARKS

SURRENDER TO NEA PRESSURE

HON. NEWT GINGRICH
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. GINGRICH. Mr. Speaker, I would like to bring to the attention of my colleagues the attached article from the March 7 Washington Times. Columnist John Leo describes the power of the National Education Association in opposing any and all school choice reform measures. Leo observes that the NEA's power is so great that it has succeeded in scuttling a full vote in the other body on the District of Columbia appropriations bill; its school voucher initiative is anathema to the NEA. As a result, the financially crippled D.C. government totters near bankruptcy.

Leo observes:

The NEA, the giant dinosaur of educational policy, is the largest single reason why the public school system seems almost impervious to real reform. It's clear goal is power over a monopolistic system, and it will do whatever it must to retain that power.

All those interested in producing true reform in our public schools are urged to read this column, submitted here into the CONGRESSIONAL RECORD.

[From the Washington Times, Mar. 7, 1996]

SURRENDER TO NEA PRESSURE

(By John Leo)

In his generally upbeat State of Education speech last week, Education Secretary Richard Riley talked darkly about people who want to ''destroy public schools'' and who ''seek nothing less than dismemberment of the public education system.''

These destroyers and dismemberers turned out to be ordinary supporters of school vouchers or school choice, a great many of whom are poor and black or Hispanic.

In part, Mr. Riley's attack on the school choice movement was protective cover for a disgraceful vote last week perpetrated by Senate Democrats under prodding from the White House. The Senate sank an aid package for the nearly bankrupt District of Columbia government, essentially because one part of the plan could have given some poor D.C. parents vouchers or scholarships for children to attend private schools. The plan went down on a procedural vote to prevent filibuster. Sixty votes were needed, but the two votes for cloture came out 54–44 and 52–42, with Democrats voting as a bloc with four dissenters, then five.

Democrats are not famous for stiffing the D.C. government, for opposing ''choice'' in any form, or even for defending Senate talkathons as a method of frustrating majorities. When it comes to essential services, Democrats routinely argue that the poor should have the same options as the middle class and the rich, even if it takes public funds to guarantee them. But all these normal party instincts are routinely suppressed when the subject is schools and the lobby applying the pressure is the major teachers union, the National Education Association.

In this case, the pressure was so intense that the Democrats preferred ''a looming crisis of Congress' own making,'' as The Washington Post put it, to keeping alive the possibility that some poor Washington children might be able to attend non-public schools. As the Republicans tell it, they had the 60 votes in hand on Monday, but the NEA leaned on President Clinton, who abandoned his support for the plan and sent a written message to congressional Democrats asking them to switch, too.

The plan would have left the decision on these vouchers up to the D.C. council, which is highly hostile to the idea. Even if the council had approved, no money would have been removed from public school coffers. School-choice money was separate from public school aid, about $21 million over five years, covering tuition scholarships for low-income children most at risk for failure.

Still, the NEA did not want D.C. voters to decide for themselves, and it didn't want Congress on record as favoring choice in any way, even for parents confronted with the worst public school system in America. Unionized teachers, like beneficiaries of monopolies everywhere, can always be counted on to suppress competition. So as expected, the White House and the Senate Democrats caved in on schedule.

The NEA, the giant dinosaur of educational policy, is the largest single reason why the public school system seems almost impervious to real reform. Its clear goal is power over a monopolistic system, and it will do whatever it must to retain that power. Given its lobbying strength and muscle within the party—almost one in eight delegates to the last Democratic National Convention were NEA members—it can reliably dictate educational policy and key votes by congressional Democrats. And it can make trouble for reformers of all persuasions. As Lamar Alexander once said, ''Only a very determined governor has the influence to marshal enough power to overcome (NEA) opposition.''

True to form, the NEA cloaked its institutional interest in fears about church-state separation being violated by children attending religious schools on vouchers. By coincidence, the church-state issue was argued last week before the Wisconsin Supreme Court. At stake is the planned expansion to religious schools of the choice program that is making the most headway—Milwaukee's plan offering scholarships, of about $3,200 a year per student for some 7,000 poor children to enroll in non-public schools.

The state of Wisconsin argued before the court that arguments calling the Milwaukee plan a violation of the establishment clause are ''no more than hollow walls'' thrown up to defend a failing public school system. In questioning lawyers, the justices seemed dubious about the constitutionality of including religious schools in the program.

Still, programs such as this stand a good chance of passing muster. Since 1983, U.S. Supreme Court rulings have held that this kind of support for students in sectarian schools is legally permissible if the aid goes directly to parents, if the choice of school is freely made by parents or guardians, and if the system of funding is neutral on parental choice of school.

Former Assistant Secretary of Education Diane Ravitch reminds us that both the Head Start program and public scholarships to college provide models for choice—in both cases, public funds legally follow students even to sectarian institutions.

A Supreme Court ruling is presumably years away. In the meantime, we may see many episodes like the Senate's shabby treatment of the D.C. package.

EXCEPTING LOCAL REDEVELOPMENT AUTHORITIES FROM THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT

HON. FRANK R. WOLF
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. WOLF. Mr. Speaker, yesterday I introduced legislation which would amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [CERCLA] to exempt certain State and local redevelopment authorities such as civic boards or commissions, and fresh start users of facilities purchased from those boards or commissions, from liability under the Superfund law under certain limited circumstances.

Under current law, civic boards or commissions charged with the job of developing plans for and encouraging the rehabilitation and reuse of Superfund sites are handicapped by certain Superfund liability provisions. These provisions could make such boards or commissions or their members liable for the costs of remediation of the site because of their involvement with developing plans to encourage future productive use of the site. This situation is unacceptable. Local governments should be able to develop and implement redevelopment plans without the fear of lawsuits seeking to join them as liable owners or operators.

Mr. Speaker, Front Royal, VA, located in Warren County, which I am proud to represent, is a beautiful and historic area located in the scenic Shenandoah Valley of the 10th District. The region has a blemish; however, namely, the Avtex-FMC Superfund site. State and local officials and the citizens of Warren County have come together in a concerted effort to cooperate with the Environmental Protection Agency (EPA) to clean up this contaminated site. Furthermore, like other communities that have Superfund sites, the citizens of Warren County and the town of Front Royal would like to move this site into productive economic use as soon as possible, thereby creating jobs and expanding the tax base.

In fact, the Warren County Redevelopment Board [WCRB], a local civic board, is dedicated to facilitating the reuse of the site. However, the WCRB is limited in what it can do because liability under CERCLA is joint and several and adheres to owners or operators whether they actually contributed to the contamination or not. That means that a local governmental entity, which assumes ownership or control of some or all of the remediated property for the sole purpose of finding a

new owner for the property, could be held liable for any further cleanup even though that entity did not engage in any response action at the facility and was not engaged in the generation of any hazardous substance disposed of at the facility.

To further complicate the situation at the Avtex-FMC Superfund site, the EPA has proposed to subdivide putatively clean portions of the site and authorize the transfer of title to the clean sites to a new governmental, industrial, or business owner. In this manner some productive reuse of part of the property could be achieved long before the other polluted portion of the site has been remediated. Taking control of such a clean portion of the site is risky for the transferee because they could be liable for any further remediation required at the site.

Thus, for example, a civic board taking ownership or control of land presently or formerly part of a Superfund site for nonprofit purposes merely with a view to conveying it to a new industrial or commercial entity could be subject to Superfund liability because, for a time, it was an owner or operator of the site, notwithstanding the fact that it never contributed to the contamination of the site. This is the problem facing the WCRB. Likewise, new fresh start users are deterred from taking over the cleaned site for fear of being liable under CERCLA's complicated liability system.

Mr. Speaker, my legislation would allow a civic entity such as the Warren County Redevelopment Board to take title to portions of the site for the purpose of conveying ownership to an economic enterprise that will in turn be granted a fresh start, that is, to take and use the property free of potential liability for past pollution caused by the conduct of other parties at the site. It must be emphasized that the exemption provided by this legislation is strictly limited. Redevelopment authorities will only escape liability if such entity first, has not engaged in any response action at the facility, second, owns the facility or any portion thereof only on a temporary basis for the purpose of transferring the facility to a fresh start user, and third, has not engaged in the generation of any hazardous substance disposed of at such facility. Similarly, fresh start users will only be exempt if they acquired the facility from a redevelopment authority and has not engaged in first, any response action at the facility, second, disposal of any hazardous substance at the facility, or third, the generation of any hazardous substance disposed of at such facility. In short, redevelopment corporations and fresh start users that contaminate the property will not escape liability, but those that have nothing to do with the pollution would not be held liable.

This legislation is a good Government measure which would give State and local governments needed flexibility in the transition of Superfund sites into productive uses. Moreover, shielding the fresh start user from liability for an act for which the new user has no blame is essential to attracting a new business user which would otherwise be deterred by the potential for liability under the current complicated liability structure.

Mr. Speaker, I ask unanimous consent to include in the RECORD a copy of this legislation and a letter from Fred Foster, president of the Warren County Redevelopment Board, in support of this bill immediately following my statement.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FROM CERCLA LIABILITY FOR CERTAIN REDEVELOPMENT AUTHORITIES AND FRESH START FACILITY USERS.

(a) EXEMPTION FOR CERTAIN REDEVELOPMENT AUTHORITIES.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following at the end thereof:

''(n) REDEVELOPMENT AUTHORITIES.—No State or local board, commission, or other entity, or any member thereof, appointed or elected pursuant to State or local law to plan for or implement the redevelopment or reuse of a facility shall be liable under this section for costs or damages with respect to any release or threat of release from the facility to the extent such liability is based solely on the entity's status as an owner of the facility under paragraph (1) of subsection (a) if such entity—

''(1) has not engaged in any response action at the facility;

''(2) owns the facility or any portion thereof only on a temporary basis prior to transfer to another entity; and

''(3) has not engaged in the generation of any hazardous substance disposed of at such facility.

(b) FRESH START USERS.—Section 101(35)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking ''described in clause (i), (ii), or (iii)'' and inserting ''described in clause (i), (ii), (iii), or (iv)'' and by adding the following after clause (iii):

''(iv) The defendant acquired the facility from a person exempt from liability under section 107(n) and has not engaged in (I) any response action at the facility, (II) disposal of any hazardous substance at the facility, or (III) the generation of any hazardous substance disposed of at such facility. This clause shall not apply to any person who impedes the performance of a response action or natural resource restoration at the facility concerned.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply only with respect to final agency actions, or court orders issued or judicial decisions made, under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 after the date of the enactment of this Act.

WARREN COUNTY
REDEVELOPMENT CORPORATION, INC.,
Front Royal, VA, July 19, 1995.

Hon. FRANK R. WOLF,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN WOLF: I am writing on behalf of the Warren County Redevelopment Board (WCRB) to thank you for authorizing the drafting of legislation that will protect the WCRB from legal liability as a result of our attempts to obtain productive reuse of the Avtex-FMC Superfund site in Front Royal.

As you know, the EPA has proposed to subdivide the Front Royal site and convey portions of the site that are supposed to be clean on an expedited basis (by the end of this year), long before the entire site has been cleaned up by FMC. As a matter of fact, FMC has proposed to amend its ''work plan'' to redo the cleaning up work on about 80% of the site which they have already been working on since mid-1980's. In addition EPA is proposing, for FMC approval, a work plan change that will allow them to dispose of contaminated industrial debris in a so called RCRA capsule. Under present law this on-site disposal will, inter alia, result in an inspection five years after the remedial action has been completed and at a minimum yet another five year reinspection delay thereafter.

One of the problems we fact is whether EPA has the legal authority to subdivide a Superfund site. I authorized our environmental counsel to write to the EPA in Philadelphia to request they disclose the basis for their authority to perform this subdivision of the site and the conveyance later this year of a ''clean'' part of the site to the WCRB.

The legislation protecting the WCRB from liability is necessary only if the subdivision of the Avtex-FMC site is legally authorized. But even under the best case scenario, if the subdivision is legally possible, the WCRB is convinced that they could never interest a new company to take over a ''clean'' part of the site unless your bill is expanded to protect not only the WCRB but the new company which will become the owner and operator of the subdivided site.

Therefore to be helpful your bill must exempt such a new owner by authorizing a ''fresh start'' status under which the new company is exempted from liability for hazardous substances and pollutants and contaminants on or near the Avtex-FMC site unless the new owner can be shown to actually release these substances by its own activities.

I am convinced that unless we can convey ''fresh start'' status to a new enterprise we will be unable to attract any company to use the site even if it can be subdivided prior to total cleanup.

Again, I want to thank you for your efforts on our behalf. The additional authority we believe to be necessary will of course entail action by the Senate as well as the House of Representatives. The WCRB and I personally would appreciate it if you would undertake to arrange a meeting with Senators Warner and Robb to get their support for this legislation.

Sincerely yours,

FRED P. FOSTER, *President.*

CONDEMN BOMBINGS IN ISRAEL

SPEECH OF

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. ACKERMAN. Mr. Speaker, I rise in stong support of House Concurrent Resolution 149, which condemns the bombings in Israel, and in solidarity with the people and Government of Israel. This recent spate of bombings was a series of heinous and cowardly acts, perpetrated by elements of the Palestinian society that have been rejected by the majority of Palestinians, and completely reviled by the international community.

During this period of grief and mourning by Israelis and Jews the world over, I am pleased to see that we can all come together like this, in bipartisan fashion, to speak against these acts of evil, and support the Israeli people in their efforts to combat terrorism. However, we are faced with a complex question: How can we best combat the evil of terrorism, as it continues to indiscriminately victimize the people of Israel? I think the appropriate follow-up to that would be: How do we then fight this evil effectively, without completely derailing the peace process? That to me is a quandary, but