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House of Representatives

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. FOLEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,

May 14, 1996.

I hereby designate the Honorable MARK FOLEY to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK] for 5 minutes.

LEGISLATION NEEDED TO COMBAT UNSCRUPULOUS BUSINESS PRACTICE

Mr. FRANK of Massachusetts. It is a pleasure to again be able to address Speaker FOLEY.

Mr. Speaker, I want to talk about a subject in which I plan soon to introduce legislation. It has to do with the practice of large, wealthy entities using a combination of their wealth but also the laws of this country, the securities laws, the tax laws, accounting principles to acquire companies when their intention in acquiring the companies is to shut them down.

In particular, I am addressing the situation in New Bedford, MA, where, to my great dismay, the firm of Kohlberg, Jerome Kohlberg and James Kohlberg, bought a company which had a plant in New Bedford, MA, a plant that has been in existence for over 100 years, that is profitable today as it was profitable when they bought it, making various forms of fasteners, shoe eyelets, and they bought it apparently to close it down. They bought it because given the tax advantages that were available to them when they borrowed money for the purchase, given other kinds of accounting questions as to what things are valued at, it enriches them more, because they are very wealthy people—we are not talking about anyone fighting for survival—it enriches them more to close it down.

I want to make a distinction because I have had people say to me, "Well, don't the owners of private property have a right to do things? In some cases closing down a plant that's faltering is the only thing to do."

Yes; sadly that is the case. But I want to make this important distinction. I am not, in the legislation I will be preparing, seeking to restrict someone who is in business, who has owned a business, who is trying to make a product, who decides that he or she can no longer profitably do that, that his or her capital would produce a better return elsewhere. I am not talking about disturbing the business decisions of long-term owners. That is a different issue. I will address that in another context. I am talking here about the case of Jerome Kohlberg and James Kohlberg acquiring this business for the purpose of shutting it down.

If it were a business that was dying because of a lack of profitability, the question would be a different one. If it were a business that were losing its suppliers, that was being even outcompeted by others, the case would be a different one. What I want to do is

to examine the tax laws, the corporate laws, the accounting practices in this country that make it profitable for people to buy a company and shut it down.

The Kohlbergs, having paid, they tell us, \$16 million for this company as they account for it, and I am skeptical of how exactly they got to that number, will not accept bona fide offers that were made for the company. I want to stress that again. We are not talking about forcing someone to keep open an unprofitable enterprise. There are responsible businesspeople in the city of New Bedford. They have worked with the United Electrical Workers Union, which has been very statesmanlike in this regard; they have worked with the mayor of New Bedford and her Economic Development Commission. And people who know the business, people who have made manufacturing work in New Bedford, have come in and said, "Please sell us this at a reasonable price," and they have been refused. Indeed, the Kohlbergs did not want to even entertain offers of a sale. We pressured them so they said they would entertain offers but they did it in so unrealistic a fashion that we had no chance to succeed.

What happens? What happens is they use various laws so they can buy up a company just to shut it down. More than 100 people are thrown out of work. Their families will be in distress. Costs will be imposed on the city of New Bedford, on the State of Massachusetts, on banks, on schools, on auto dealers. These are hardworking Americans who suddenly find themselves bereft of an income at a time and a place where it is not going to be easy for them to replace it, so that Jerome Kohlberg and James Kohlberg, who are already quite wealthy, can get wealthier.

Again, I want to stress, this is a case where they bought this place to shut it

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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down. People have said, "Do you want to interfere with private property?"

Well, yes; I do want to reduce the incentive people have to buy a going concern that was in no danger, that we know of, of shutting down just so they can shut it down and get richer. We had in this case people ready to step forward. If the owner wanted to sell, a fair price would have been offered. There were people ready to say, "Here's your money and we will take over and we will keep this place running."

We are not talking about confiscating private property. We are not talking about interfering with a legitimate business decision that says, "This is no longer a profitable enterprise. I'm taking my capital elsewhere." We are talking about a set of laws in this country and regulations and accounting practices, and these need to be looked at further, that incentivize someone buying a plant solely for shutting it down. That is something that must be changed.

WE TOLD YOU SO

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. STEARNS] is recognized during morning business for 5 minutes.

Mr. STEARNS. Mr. Speaker, last year, after a long and passionate debate, the United States joined the World Trade Organization. The WTO, as it is known, is an international body based in Geneva with 120 nation members. In simple terms, the WTO is the police force of international commerce and trade, a mechanism for enforcement of the world's trade laws.

Supporters of the WTO promoted entry as a means toward a fair and free trade policy. It was, they argued, a way for the United States to knock down other nation's protectionist trade barriers.

Opponents, who came from all political spectrums, foresaw a different world. Citizen's groups predicted a situation where other countries would pressure the WTO into weakening America's world-leading environmental, health, and safety laws. Economists warned that the WTO would penalize the forward-looking United States to the advantage of the mercantilist nations of East Asia and of the European Union. Nationalists were terrified of an organization that held the United States as equal to the other 120 member nations, for we would have no veto power, despite our obvious stature.

Many of us in Congress worked diligently to defeat the ill-advised entry into this Organization. I believed then, and still maintain, that our sovereignty is endangered by our membership in the WTO. Simply put, we are not equal to other nations. We have the world's most powerful economy, the world's most desirable markets, and the world's most advanced and for-

ward-looking environmental, health, and safety laws. In other words, we have the most to lose. Entry into the WTO made no sense to us; we saw it as a means toward the demise of our sovereignty, the weakening of our standards and laws, and as a means toward the subversion of our already precarious trading position.

Unfortunately for all Americans, we were right.

The WTO handed down its first decision in January, and guess who came out the loser? If you said the United States, you're right. The case, which was brought against the United States by Venezuela and Brazil, challenged a 1993 EPA rule on gasoline standards. Specifically, the rule required America's dirtiest cities to improve their gasoline by 15 percent over 1990 levels. The two plaintiffs argued that this rule put their fuel at unfair disadvantage, that they would be held to higher standards than domestic producers because they didn't have adequate 1990 data. The case was decided by a panel of three trade experts from Finland, Hong Kong, and New Zealand, who unanimously ruled in favor of the plaintiffs.

The WTO ruling granted America three choices as retribution: First, we can change the EPA rule and let in dirtier gasoline; second, we can keep the regulation in place and face \$150 million in annual trade sanctions, such as tariffs on U.S. exports; or third, we can negotiate the terms of the sanctions and perhaps compensate the plaintiffs with lower tariffs on their exports. Regardless of which plan we pick, we lose. U.S. oil refiners, who have invested millions of dollars to come into compliance by producing cleaner fuel and by adequately reporting their data, will be forced to compete with dirtier, cheaper gasoline imports. Of course, the worse part of the ruling is the establishment of the WTO jurisprudence over a wide array of U.S. laws.

The ruling affirmed the fears of everyone who opposed America's entry into the WTO. It deemed our environmental policy too stringent; it provided two weaker nations a means to unfairly enter our market; and worst of all, the ruling undercuts our sovereignty.

Our laws and policies are made through a democratic process. And although we may not always agree with the laws and rules that govern us, we at least have the benefit of representation. Obviously, through this process we hope to balance the concerns of all involved parties. We hope, ultimately, to maintain a modicum of fairness.

The WTO ruling has proven to be the antithesis of the democratic process. We as a nation have been forced to comply with the decisions of a body, whose main interest seems to be the forced opening of our markets. The WTO, in their ruling, subverted our laws and our legitimate trade barriers. They determined that we as a sovereign nation have no right to bar

entry into our markets, regardless of the merits and regardless of another nation's failure to meet our democratically set standards.

My colleagues, this is dangerous stuff. The WTO's ruling sets a scary precedent. It sends a message to the nations of the world that U.S. policy can be thwarted, that our democratic process means nothing, and that our standards mean even less. Furthermore, the ruling puts our own industries at a disadvantage, for they must continue to play by the rules.

They must continue to obey the standards and rules of production and dissemination.

In the end, America is the only loser. Our involvement in this Organization creates an unfair advantage for our trading partners, who don't have to live up to the same standards as U.S. firms. It forces American businesses, who must comply with stricter standards to compete with companies from countries with weak policies and a strong entry mechanism in the WTO.

As is becoming the standard with our trade policy, the WTO will ultimately force American jobs overseas and force our country to weaken our environmental and health standards. This, of course, undermines the trust of our trade policy, which should serve as a job creation mechanism and as a tool to force other countries to come into compliance with our higher standards. Our involvement in the WTO is, unfortunately, the explication of all that is wrong with our current trade policy.

Mr. Speaker, my colleagues, I am afraid that we will continually be forced into inequitable positions by the WTO, that the Organization will serve only as a tool for other nation's to bypass our sovereignty. America is the only loser in this game, and this, my colleagues is game we can't afford to play.

Let me conclude, Mr. Speaker, by saying, this first ruling by the WTO forbodes a dark future for our Nation. I ask that we reconsider our entry into the WTO.

SACRED COW DISEASE ALIVE AND WELL IN DEFENSE AUTHORIZATION BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I am here to talk a bit about what we are getting ready to do today. We are getting ready to go into the Defense Department authorization and I want to know, where are the budget hawks? Where are all these people who have been talking about the deficit? Because when we look at where we are, it is really very, very troubling.

Let me show my colleagues some charts. Everybody has their charts and I did not come unprepared. If we look at this and we look at the United States, which is the blue line, that is where we are spending. If we look at the red line, that is where Russia is spending. As we can see, when the cold war ended, their spending melted down. Not us. We keep right on spending.