



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 105<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 143

WASHINGTON, TUESDAY, OCTOBER 21, 1997

No. 142

## House of Representatives

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Ms. GRANGER].

### DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,

October 21, 1997.

I hereby designate the Honorable KAY GRANGER to act as Speaker pro tempore on this day.

NEWT GINGRICH,

*Speaker of the House of Representatives.*

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 8. Concurrent resolution recognizing the significance of maintaining the health and stability of coral reef ecosystems.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 399. An act to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes;

S. 587. An act to require the Secretary of the Interior to exchange certain lands located in Hinsdale County, Colorado;

S. 588. An act to provide for the expansion of the Eagles Nest Wilderness within the Arapaho National Forest and the White River National Forest, Colorado, to include land known as the Slate Creek Addition;

S. 589. An act to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National

Forest, Colorado, to correct the effects of earlier erroneous land surveys;

S. 591. An act to transfer the Dillon Ranger District in the Arapaho National Forest to the White River National Forest in the State of Colorado;

S. 595. An act to designate the United States Post Office building located at Bennett Street and Kansas Expressway in Springfield, Missouri, as the "John Griesemer Post Office Building";

S. 916. An act to designate the United States Post Office building located at 750 Highway 28 East in Taylorsville, Mississippi, as the "Blaine H. Eaton Post Office Building";

S. 973. An act to designate the United States Post Office building located at 551 Kingstown Road in Wakefield, Rhode Island, as the "David B. Champagne Post Office Building"; and

S. 985. An act to designate the post office located at 194 Ward Street in Paterson, New Jersey, as the "Larry Doby Post Office".

The message also announced that in accordance with sections 1928a-1928d, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Utah [Mr. BENNETT] as a member of the Senate delegation to the North Atlantic Assembly during the 1st session of the 105th Congress, to be held in Bucharest, Romania, October 9-14, 1997.

### MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, 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 30 minutes, and each Member except the majority leader, the minority leader, or the minority whip limited to 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. PAUL] for 5 minutes.

### TOBACCO SETTLEMENT

Mr. PAUL. Madam Speaker, tobacco industry leaders are under attack by

nearly everyone. A tobacco-friendly tax provision that was hidden in the settlement was quickly removed by the Senate and the House once the public became aware of it. But without a tax benefit or higher cigarette prices, or both, there is no way the industry can afford the astronomical \$368.5 billion settlement they have agreed to pay over the next 25 years. The industry makes only \$8.4 billion annual pretax profit.

The tobacco companies deserve every bit of grief they are receiving, but for reasons other than commonly assumed. It is true they profit from selling a dangerous product, but so do automobile, airplane, and gun manufacturers as well as food producers, drug companies, and coffee farmers. When we boil it down, any product used incorrectly or excessively is dangerous. Even oxygen used incorrectly can be dangerous. And most people know tobacco is dangerous without the benefit of the nanny-state inspectors and the bureaucrats' warning label.

Tobacco company executives symbolize much of what is wrong with corporate America and our corrupt system of special interests, favoritism, and interventionism. For decades, Big Tobacco lobbied for and gladly accepted subsidies and trade benefits, while anyone with a grain of common sense knew smoking was a bad habit that adversely affected some people's health. It is no secret that young people could easily become addicted to nicotine.

There were specific gains to be realized from the charade that surrounded tobacco sales. Pretending that smoking was a benign habit made it easier to collect benefits from the nonsmoking taxpayers. And the alternative, arguing for personal responsibility, was hardly in vogue.

Over the past 50-plus years, responsibility for risk incrementally has been shifted from the individual to the State. As we moved further from a free

□ 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.



Printed on recycled paper containing 100% post consumer waste

H8835

society toward a managed welfare state, responsibility for nearly everything began to be systematically delivered to someone else through the State and its growing army of bureaucrats. The tobacco industry was a willing accomplice to this betrayal of individual responsibility.

The failure of Big Tobacco to fight Government's requirement to put warning labels on cigarettes while accepting agricultural subsidies allowed the entire smoking industry to be invaded by the Federal Government.

Tobacco put the welcome mat out for big Government. Now it is only a matter of time before nicotine will be declared a drug and more FDA regulation will inundate us. Unfortunately, this will only compound our many problems with nicotine.

Madam Speaker, smoking should be treated no differently than compulsive eating, chocolate addiction, or driving too fast. But the way the tobacco corporate leaders are acting in cahoots with big Government, one would think they are conspiring to prevent this.

Madam Speaker, the question is who has responsibility for our well-being? Who should make decisions regarding risk-taking and personal habits, the Government or the individual?

During the Clinton health care debate, tobacco, and nearly every other industry took the easy way out. They conceded that it was Government's responsibility, Federal and State, to provide medical care for everyone, as if it were in itself a constitutional right.

When the free market works, medical insurance premiums adjust to reflect the cost of habits like smoking, sky diving, overweight, and medical preconditions. When Government pays, the concept of insurance goes out the window and everybody gets everything paid for and no one can be discriminated against.

Persons who have harmed their health by smoking have learned they can coerce those with good health into paying for the consequence of their bad habit. In fact, many who harm themselves through their chosen lifestyles, not just a single bad habit, religiously believe they have a right to be taken care of by someone else. This group of individuals, not only those who smoke, but those who drink too much or perform sexual acts which increase their chance of acquiring AIDS or hepatitis, or who will not diet to take care of diabetes or heart conditions.

It is this abdication of personal responsibility, this misconceived notion that the State is responsible for us, that drives counterintelligent drug laws, which inspires the use of dirty needles, which serves to further spread AIDS and hepatitis. And instead of legalizing the right to buy a clean needle for a few pennies, the bureaucrats insist on making it the Government's responsibility to coerce nondrug users into paying for free needles so the addicts can keep using their illegal drugs. Nothing could be more bizarre.

This lack of understanding responsibility, rights and subsidies has led the tobacco industry leaders to further compound the problem by not fighting the trumped up obligation to pay for any health care that may have arisen from smoking.

Not once have we heard a tobacco industry leader defend his right to sell something that is risky to someone but not others, which is the case with tobacco and most other products.

Tobacco industry leaders are under attack by nearly everyone. A tobacco-friendly tax provision that was hidden in the settlement was quickly removed by the Senate and House once the public became aware of it. But without a direct tax benefit or higher cigarette prices, or both, there's no way the industry can afford the astronomical \$368.5 billion settlement they have agreed to pay over the next 25 years—the industry makes only \$8.4 billion annual pretax profit.

The tobacco companies deserve every bit of grief they are receiving—but for reasons other than commonly assumed. It's true they profit from selling a dangerous product. But so do automobile, airplane, and gun manufacturers, as well as food producers, drug companies, and coffee farmers. When you boil it down, any produce used incorrectly or excessively is dangerous. Even oxygen used incorrectly can be dangerous. And most people know tobacco is dangerous without the benefit of the nanny-state inspectors and the bureaucrats' warning label.

Tobacco company executives symbolize much of what is wrong with corporate America and our corrupt system of special interests, favoritism, and interventionism. For decades, big tobacco lobbied for, and gladly accepted, subsidies and trade benefits while anyone with a grain of common sense knew smoking was a bad habit that adversely affected some people's health. It was no secret that young people could easily become addicted to nicotine.

There were specific gains to be realized from the charade that surrounded tobacco sales. Pretending that smoking was a benign habit made it easier to collect benefits from nonsmoking taxpayers. And the alternative—arguing for personal responsibility—was hardly in vogue.

Over the past 50-plus years, responsibility for risk has incrementally been shifted from the individual to the State. As we moved further from a free society toward a managed welfare state, responsibility for nearly everything began to be systematically delivered to somebody else through the State and its growing army of bureaucrats. The tobacco industry was a willing accomplice to this betrayal of individual responsibility.

The failure of big tobacco to fight Government's requirement to place warning labels on cigarettes, Government intervention into distribution, while accepting agricultural subsidies, Government involvement in production, allowed the entire smoking industry, from production to distribution, to be invaded by the Federal Government.

Tobacco put out the welcome mat for big government. Now, it's only a matter of time before nicotine will be declared a drug and more FDA regulations will inundate us. Unfortunately this will only compound our many problems with nicotine.

Smoking should be treated no differently than compulsive eating, chocolate addiction,

or driving too fast. But the way the tobacco corporate leaders are acting in cahoots with big government, you would think they are conspiring to prevent this.

The question is: Who has responsibility for our well-being? Who should make decisions regarding risk taking and personal habits—the government or the individual?

During the Clinton health-care debate, tobacco and nearly every other industry took the easy way out. They conceded that it was the Government's responsibility—Federal and state—to provide medical care for everyone as if it were, in itself, a constitutional right.

When the free market works, medical insurance premiums adjust to reflect the costs of habits like smoking, sky diving, overweight, and medical preconditions. When Government pays, the concept of insurance goes out the window, everybody gets everything paid for, and no one can be discriminated against.

Persons who have harmed their health by smoking have learned they can coerce those with good health into paying for the consequences of their bad habit. In fact, many who harm themselves through their chosen lifestyles, not just a single bad habit, religiously believe they have a right to be taken care of by someone else. This group includes not only those who smoke, but those who drink too much, or perform sexual acts which increase their chances of acquiring AIDS or hepatitis, or those who won't diet to take care of their diabetes or heart conditions.

It's this abdication of personal responsibility—this misconceived notion that the State is responsible for us—that drives counterintelligent drug laws, which inspires the use of dirty needles, which serves to further spread AIDS and hepatitis. And instead of legalizing the right to buy a clean needle for a few pennies, the bureaucrats insist on making it Government's responsibility to coerce nondrug users into paying for free needles so the addicts can keep using their illegal drugs. Nothing could be more bizarre.

This lack of understanding responsibility, rights, and subsidies has led tobacco industry leaders to further compound the problem by not fighting the trumped-up obligation to pay for any health care that may have arisen from smoking.

Not once have we heard a tobacco industry leader defend his right to sell something that is risky to some but not others—which is the case with tobacco and most other products. One pack of cigarettes a year never hurt anyone. Everyone who smokes doesn't become addicted. Ninety percent of smokers never get a smoking-related illness. Absent fraud, the user is responsible for the risk he assumes, not the seller of any given product.

It has been suggested by some that smoking cigarettes provides certain immunity from some diseases. I personally cannot stand smoking, and even as a child I knew it was dangerous. It was a time when parents had a lot more to do with assuming the responsibility for teaching children about all dangers—like fire, chemicals, heights, crossing highways, sharp objects, guns, and smoking.

We still don't hear a principled challenge to the demands of the various states to be reimbursed by the tobacco industry for the costs of smoking-related illnesses. States should not be in the medical business in the first place, let alone be extorting funds from the producers of tobacco products.

Yes, the business leaders in the tobacco industry deserve sharp criticism. Once this precedent of paying medical bills is set, the manufacturers of automobiles will then be liable for all accidents even if the drivers are speeding and intoxicated. Chocolate addicts can then sue Hershey, fat people can sue cattle ranchers. The whole notion that tobacco companies should pay for tobacco-related illnesses is absurd.

The tobacco deal does great harm, because it further undermines the principle of self-responsibility. The spread of this concept will not only push up the costs of medical treatment and the products involved, it could actually encourage the use of dangerous products. The response of potential users will be, "If I'm unfortunate and become ill or injured, the seller or the Government will be made to take care of me"—a very common reaction in a welfare state. To the extent one can lower the cost of one's own risky habit by socializing it, one is less likely to worry about consequences and more likely to engage in that dangerous behavior.

If this attitude toward consumer risk is not changed, the free society that we once had cannot be restored.

I'd like to see a spokesman for tobacco come forward and insist on recognition of the moral principle that individuals have responsibility for themselves and a duty to make choices and assume the consequences of the risks they take. My advice to him would be to give up the subsidies, demand freedom, and fight the social misfits who argue for collective guilt and collective responsibility. Any other course of action will lead to more evils.

#### CONGRESSIONAL CAUCUS ON WOMEN'S ISSUES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized during morning hour debates for 5 minutes.

Ms. NORTON. Madam Speaker, the women of the House have something to celebrate this evening. Nearly all—Republican and Democratic women alike—are members of the Congressional Caucus on Women's Issues. The caucus will celebrate 20 years of historic legislation and other milestones for women, families, and children led by the Women's Caucus for two decades.

Madam Speaker, an all-star cast will be on hand at the elegant Andrew Mellon Auditorium for the 7 p.m. dinner led by remarks from President Clinton himself. Secretary of State Madeleine Albright will speak, ABC's Cokie Roberts, the daughter of former Congresswoman Lindy Boggs, will MC, and "Sweet Honey in the Rock," the award-winning singing group, will entertain.

Today, 50 of the 52 women of the House are members of the caucus. We are more than three times the group we were in 1977 when 15 Members led by former Representatives Elizabeth Holtzman and Margaret Heckler founded the Congressional Caucus on Women's Issues. Resolutely bipartisan from

that day to this, the caucus has a list of achievements that boggle the mind. Here is a sampling from the honor roll of legislative landmarks achieved through the leadership of the Women's Caucus:

The Family Medical and Leave Act, the Violence Against Women Act, the Pregnancy Discrimination Act, retirement equity legislation, child support enforcement legislation, the Mammography Quality Assurance Act, legislation that established the NIH Office of Research in Women's Health, legislation barring health plan discrimination against victims of domestic violence and against the genetic information of clients, criminalization of female genital mutilation, and policies requiring that women be included in clinical trials. There is too much more where that came from to name and there is lots more to come.

Madam Speaker, this year we have initiated new approaches in the caucus that promise even greater legislative production. We have inaugurated a series of Women's Caucus hearings and we now have 14 issue teams, each led by a Republican and a Democratic Member. My cochair, the gentlewoman from Connecticut [Mrs. JOHNSON], and I have worked hard in the tradition of prior Republican and Democratic co-chairs, the gentlewoman from Maryland [Mrs. MORELLA] and the gentlewoman from New York [Mrs. LOWEY], former Congresswomen Liz Holtzman and Margaret Heckler, former Congresswoman Pat Schroeder and former Representative and now Senator OLYMPIA SNOWE.

Tonight we are throwing ourselves a party. We hope to see our colleagues there.

#### SUPPORT THE 21ST CENTURY PATENT SYSTEM IMPROVEMENT ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from North Carolina [Mr. COBLE] is recognized during morning hour debates for 5 minutes.

Mr. COBLE. Madam Speaker, I want to respond to the unfounded and increasingly bizarre criticism of H.R. 400, the 21st Century Patent System Improvement Act.

Throughout the winter and spring of the current session, I have been involved with the writing, reshaping, and marshaling support for H.R. 400. While I understand that the legislative process is necessarily deliberate and often contentious, I confess my ongoing amazement that this bill has engendered so much controversy.

Madam Speaker, we are not talking about a red meat issue that divides people on partisan ideological lines. This is not a subject matter that hits at the gut or tears at the heart. This is not gun control, abortion, or the death penalty. This is a patent bill, but significant to America's economic well-being.

Now, for most people the words "patent bill" are sufficient to induce sleep. For a small minority, however, it inspires a level of paranoia that reaches biblical proportions. I recently witnessed two floor critiques of H.R. 400 and S. 507 and the experience was quite revealing, Madam Speaker.

Previously, I was led to believe that my exclusive motivation in sponsoring H.R. 400 was to destroy the U.S. patent system. But no, I am far more ambitious. I have now learned that Senator HATCH and I are part of a nefarious plot designed to ruin the United States of America financially.

Madam Speaker, the two orations through which I sat were, charitably considered, devoid of factual content. Worst still, however, were the base metaphors and clichés invoked to drive home the opposition's point. There were references to secret deals with the Japanese Government that will enable Japanese corporations, Chinese corporations, huge multinationalists, and if it can be believed, the People's Liberation Army, to bully the little guy and brutalize Americans.

Representatives from American corporations were criticized for having talked to Congressmen and were clearly identified as members of the enemy. Presently, the paranoid jumble was tied together and we learned that H.R. 400 and S. 507 constitute the first fight in a war that, if not won on our opponents' terms, will result in the complete internationalization of American economic activity and the total elimination of our liberty. I recall no mention of black helicopters or drug trafficking by the Queen of England, but such testimony is sure to follow.

Madam Speaker, for anyone who cares to know the facts, H.R. 400 and S. 507 are forward-thinking attempts to make our current patent system even stronger. Both bills would allow the Patent and Trademark Office to operate more like a business on a day-to-day basis, while subjecting the agency to congressional and executive oversight.

Good faith users of the patent system, those who the Constitution was intended to protect, will be guaranteed a minimum of 17 years of patent term and, in most instances, will receive more than 18 years.

□ 1045

Far from hurting applicants, the publication feature of H.R. 400, or what is left of it, will inhibit patent submarining, which does indeed harm American businesses and generally violates the constitutional spirit of patent policy. Both bills also create a new patent pending right, along with a commercial use defense for inventors who do not have the resources to file for protection. And companies which pedal application scams to innocent inventors will be punished severely under H.R. 400.

A well-known American inventor once wrote, "with the change of circumstances, institutions must advance