

upper edifice of the church was constructed and stands today as a monument of faith and spiritual enrichment to both the church membership and the Gary community.

Over the years, the church has experienced some changes and was led by a variety of pastors. In spite of its many changes, the loyal parishioners continued to grow and prosper. On June 24, 1994, the Reverend O.C. Comer was appointed pastor of Bethlehem A.M.E. Zion Church. Under Reverend Comer's guidance, the church has started two new ministries including the Bus Ministry and the Street Ministry.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in congratulating the parish family of Bethlehem African Methodist Episcopal Zion Church, under the guidance of Reverend O.C. Comer, as they prepare to celebrate their 84th anniversary. All past and present parishioners and pastors should be proud of the numerous contributions they have made with love and devotion for their church throughout the past 84 years.

TRIBUTE TO THE LITTLE ROCK
NINE AND MRS. DAISY BATES

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. BERRY. Mr. Speaker, as we honor today the Little Rock Nine with the Congressional Medal of Honor, I would also like to pay tribute to Daisy Bates, who passed from this Earth last week. Ms. Bates was a mentor to the Little Rock Nine during the Central High School desegregation crisis in 1957. She was a true leader of our time.

Daisy Bates was a participant in a movement that changed history forever. Those young people and Daisy Bates became symbols to all of us of what it means to be courageous, honorable and exceptionally brave. Daisy Bates was a great mentor who had the courage to stand up for what she believed in. Mrs. Bates was a courageous woman under all circumstances and she will be greatly missed.

PERSONAL EXPLANATION

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. TIAHRT. Mr. Speaker, on November 8, I was unavoidably detained and missed rollcall vote Nos. 574, 575, and 576. Had I been present, I would have voted "yes" on H. Res. 94, Recognizing the Generous Contributions Made by Each Living Person; "yes" on H.R. 2904, to Amend the Ethics in Government Act of 1978 to Reauthorize Funding for the Office of Government Ethics, and "yes" on H. Res. 344, Recognizing and Honoring Payne Stewart and Expressing the Condolences of the House of Representatives to His Family on His Death.

HONORING AMERICA'S ARMED
SERVICES DURING THE HOLIDAYS

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. ANDREWS. Mr. Speaker, I submit for the RECORD a spectacular rendition of the timeless holiday tale, "Twas the Night Before Christmas." This holiday season I encourage all of us to remember the men and women of our country's armed services who work twenty-four-hours a day, seven days a week to guarantee our safety and the safety of our beloved children. May they know how much we appreciate their sacrifices for freedom.

'Twas THE NIGHT BEFORE CHRISTMAS
(By an American Marine stationed in
Okinawa, Japan)

'Twas the night before Christmas,
he lived all alone,
in a one bedroom house made of
plaster and stone.

I had come down the chimney
with presents to give,
and to see just who
in this home did live.

I looked all about,
a strange sight I did see,
no tinsel, no presents,
not even a tree.

No stocking by mantel,
just boots filled with sand,
on the wall hung pictures
of far distant lands.

With medals and badges,
awards of all kinds,
a sober thought
came through my mind.

For this house was different,
it was dark and dreary,
I found the home of a soldier,
one I could see clearly.

The soldier lay sleeping,
slent, alone,
curled up on the floor
in this one bedroom home.

The face was so gentle,
the room in such disorder,
now how I pictured
a United States soldier.

Was this the hero
of whom I'd just read?
Curled up on a poncho,
the floor for a bed?

I realized the families
that I saw this night,
owed their lives to these soldiers
who were willing to fight.

Soon round the world,
the children would play,
and grown-ups would celebrate
a bright Christmas day.

They all enjoyed freedom
each month of the year,
because of the soldiers,
like the one lying here.

I couldn't help wonder
how many lay alone,
on a cold Christmas eve
in a land far from home.

The very thought
brought a tear to my eye,
I dropped to my knees
and started to cry.

The soldier awakened
and I heard a rough voice,
"Santa don't cry,
this life is my choice;

I fight for freedom,
I don't ask for more,
my life is my god,
my country, my Corps."

The soldier rolled over
and drifted to sleep,
I couldn't control it,
I continued to weep.

I kept watch for hours,
so silent and still
and we both shivered
from the cold night's chill.

I didn't want to leave
on that cold, dark, night,
this guardian of honor
so willing to fight.

Then the soldier rolled over,
with a voice soft and pure,
whispered, "carry on Santa,"
it's Christmas Day, all is secure."

One look at my watch,
and I knew he was right
"Merry Christmas my friend,
and to all a good night."

IN HONOR OF THE UKRAINIAN
BANDURIST CHORUS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to congratulate the Ukrainian Bandurist Chorus on their 50th Anniversary in America. The Ukrainian Bandurist Chorus is an all-male musical ensemble consisting of 20 instrumentalists and vocalists. The chorus was originally founded in Kyiv, Ukraine in 1918. The ensemble relocated in Detroit, Michigan in 1949. This internationally recognized ensemble has performed at such well-known theaters as Carnegie Hall, the Kennedy Center, Bolshoi Theater, and Massey Hall. In addition, the Ukrainian Bandurist Chorus has entertained many world figures and personalities with their exciting programs of folk songs, religious works and the exotic sounds of the bandura.

Three generations of members have passed through the ranks of the Ukrainian Bandurist Chorus since its displacement from Ukraine in 1942. In addition to its mission of carrying the tradition of the bandura to the 21st century, the Chorus is also charged with preserving its past for future generations. The history of the Ukraine Bandurist Chorus can be traced directly to the 12th Archeological Congress in Kharkiv, Ukraine in 1902. The first professional bandurist chorus was formed in Kyiv in 1918 during the height of the country's brief period of independence. During a time of increased popularity and resurgence of the Ukrainian arts and culture, the group developed into a professional touring group. Following this time of heightened regard, the Chorus' history evolved into a turbulent one. The bandurist ideal of God, truth, freedom, and human dignity herald through song were under attack by the newly formed Soviet Union. As a result many of the original members of the Ukrainian bandurist Chorus were executed. After years of persecution and exploitation the Chorus was forced to immigrate to Detroit. During a time of devastation and uncertainty, Hryhory Kytasty, the long standing director acted as a role model and inspiration to the young bandurists. Kytasty worked hard

to further the art of the bandura in the free world.

Today, the majority of the Chorus members are 2nd and 3rd generation Americans and Canadians. Fortified by a whole new generation of young musicians, the Chorus has captivated audiences in major concert halls in the United States, Canada, Europe and Australia for more than 50 years. The current director of the Ukrainian Bandurist Chorus is Oleh Mahlay, a recognized prized musician and a member of the chorus since 1987. Mahlay, who hails from Cleveland, Ohio, received a bachelor of arts in music history and literature from Case Western University. He also studied voice and piano at the Cleveland Institute of Music. Mahlay has received numerous accolades for his musical abilities and contributions such as the Kennedy Prize for Creative Achievement in Music from Carnegie Mellon University. He has participated in the Chorus' two triumphant tours of Ukraine in 1991 and 1994, and had his premier as a conductor of the group in 1994.

It is truly an honor for me to recognize this exceptional group. The music of the Ukrainian Bandurist Chorus is as captivating as it is moving and visibly heartfelt. The songs of the group are full of emotion and stand testimony to the ideals of the bandurist. My distinguished colleagues, please join me in honoring the very special anniversary of the magnificent Ukrainian Bandurist Chorus.

INTRODUCTION OF THE SMALL BUSINESS FRANCHISE ACT OF 1999

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. CONYERS. Mr. Speaker, today I am proud to reintroduce, with my good friend from North Carolina, Mr. COBLE, the Small Business Franchise Act. This legislation represents hard work, and a good faith effort to strike an appropriate, bipartisan balance between the rights of franchisors and franchisees. These issues have been the subject of a hearing in this Judiciary Committee earlier this year, and the issues merit action by this Congress.

Protecting the rights of franchisees is ultimately about protecting the rights of small business. They often face enormous odds and a daunting inequality of bargaining power when dealing with national franchisors. Unfortunately, the law often offers little recourse in the face of great harm.

There is currently no federal law establishing standards of conduct for parties to a franchise contract. The Federal Trade Commission rule promulgated in 1979, (16 CFR § 436), was designed to deter fraud and misrepresentation in the re-sales process and provide disclosure requirements and prohibitions concerning franchise agreements. The FTC maintains, however, that it has no jurisdiction after the franchise agreement is signed.

As a result, in the absence of any Federal regulation, a number of complaints have been lodged in recent years, principally stemming from the fact that franchisees do not have equal bargaining power with large franchisors. The concerns include the following:

(1) Taking of Property without Compensation. Franchise agreements generally include a

covenant not-to-compete that prohibits the franchisee from becoming an independent business owner in a similar business upon expiration of the contract. This can appropriate to the franchisor all of the equity built up by the franchisee without compensation.

(2) Devaluation of Assets. Franchisors often induce a franchisee to invest in creating a business and then establish a competing outlet in such proximity to the franchisee that the franchisee suffers economic harm.

(3) Restraint of Trade. Most franchise relationships mandate that franchisees purchase supplies, furniture, etc. from the franchisor or sources approved by the franchisor. While it may be appropriate for franchisors to exercise some control concerning the products or services offered to franchisees, tying franchisees to certain vendors can cost franchisees millions of dollars, prevents competition among vendors, and can have an adverse impact upon consumers.

(4) Inflated Pricing. Many franchise agreements specify that the franchisor has the right to enter into contractual arrangements with vendors who sell goods and services to franchisees that are mandated by the franchise agreement. It has been alleged that these vendors often provide kickbacks and commissions to the franchisor in return for being allowed to sell their products and services to a captive market. Instead of passing these kickbacks and commissions on to the franchisee to reduce their cost of goods sold and increase their margin, these payments, it is asserted, benefit the franchisor.

While our nation has enjoyed an unprecedented economic boom, it is essential that Congress ensure that prosperity reaches down to the small businesses that make up the heart and soul of our economy. We have an obligation to ensure that the law governing this segment of the economy, which every American patronizes routinely is fair and balanced. I urge my colleagues to join with me and the gentleman from North Carolina in supporting this overdue and needed reform.

The following is a section-by-section description of the legislation:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

Sets forth the short title of the Act and the table of contents.

SECTION 2. FINDINGS AND PURPOSE.

Subsection (a) specifies a series of Congressional findings. Subsection (b) states that the purpose of the Act is to promote fair and equitable franchise agreements, to establish uniform standards of conduct in franchise relationships, and to create uniform private Federal remedies for violations of Federal law.

SECTION 3. FRANCHISE SALES PRACTICES.

Subsection (a) prohibits any person, in connection with the advertising, offering, or sale of any franchise, from (1) employing a device, scheme, or artifice to defraud; (2) engaging in an act, practice, course of business, or pattern of conduct which operates or is intended to operate as a fraud upon any prospective franchisee; and (3) obtaining property, or assisting others in doing so, by making an untrue statement of a material fact or failing to state a material fact.

Subsection (b) prohibits franchisors, subfranchisors, and franchise brokers, in connection with any disclosure document, notice, or report required by any law, from (i) making an untrue statement of material fact, (ii) failing to state a material fact, or (iii) failing to state any fact which would

render any required statement or disclosure either untrue or misleading. The subsection also prohibits franchisors, subfranchisors, and franchise brokers from failing to furnish any prospective franchisee with all information required to be disclosed by law and at the time and in the manner required and from making any claim or representation to a prospective franchisee, whether orally or in writing, which is inconsistent with or contradicts such disclosure document.

"Disclosure document" is defined as the disclosure statement required by the Federal Trade Commission in Trade Regulation Rule 436 (16 CFR 436) or an offering circular prepared in accordance with Uniform Franchise Offering Circular guidelines as adopted and amended by the North American Securities Administrators Association, Inc. or its successor.

SECTION 4. UNFAIR FRANCHISE PRACTICES.

Subsection (a) prohibits any franchisor or subfranchisor, in connection with the performance, enforcement, renewal and termination of any franchise agreement, from (1) engaging in an act, practice, course of business, or pattern of conduct which operates as a fraud upon any person; (2) hindering, prohibiting, or penalizing, either directly or indirectly, the free association of franchisees for any lawful purpose, including the formation of or participation in any trade association made up of franchisees or of associations of franchises; and (3) discriminating against a franchisee by imposing requirements not imposed on other similarly situated franchisees or otherwise retaliating, directly or indirectly, against any franchisee for membership or participation in a franchisee association.

Subsection (b) prohibits a franchisor from terminating a franchise agreement prior to its expiration without good cause.

Subsection (c) prohibits a franchisor from prohibiting, or enforcing a prohibition against, any franchisee from engaging in any business at any location after expiration of a franchise agreement. This subsection does not prohibit enforcement of a franchise contract obligating a franchisee after expiration or termination of a franchise to (i) cease or refrain from using a trademark, trade secret or other intellectual property owned by the franchisor or its affiliate, (ii) alter the appearance of the business premises so that it is not substantially similar to the standard design, decor criteria, or motif in use by other franchisees using the same name or trademarks within the proximate trade or market area of the business, or (iii) modify the manner or mode of business operations so as to avoid any substantial confusion with the manner or mode of operations which are unique to the franchisor and commonly in practice by other franchisees using the same name or trademarks within the proximate trade or market area of the business.

SECTION 5. STANDARDS OF CONDUCT.

Subsection (a) imposes a duty to act in good faith in the performance and enforcement of a franchise contract on each party to the contract.

Subsection (b) imposes a nonwaivable duty of due care on the franchisor. Unless the franchisor represents that it has greater skill or knowledge in its undertaking with its franchisees, or conspicuously disclaims that it has skill or knowledge, the franchisor is required to exercise the skill and knowledge normally possessed by franchisors in good standing in the same or similar types of business.

Subsection (c) imposes a fiduciary duty on the franchisor when the franchisor undertake to perform bookkeeping, collection, payroll, or accounting services on behalf of the franchisee, or when the franchisor requires franchisees to make contributions to