A RECENT ADOPTED RESOLUTION

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 2016

Mr. DUNCAN of Tennessee. Mr. Speaker, on August 9, 2016 I had a conversation with my good friend and Knoxville Attorney James M. Crain.

Mr. Crain and I had the opportunity to discuss the federal edict announcing that every public school in America is to allow students to use whichever bathroom they choose.

During our conversation Mr. Crain discussed a resolution adopted by the West Knoxville/Knox County Republican Club offered by Mr. Crain.

Newscom published an opinion editorial titled, "A Bathroom of One's Own," that is consistent with the adopted resolution.

This article is well reasoned and is consistent with the views of many of the people from my District in East Tennessee.

I think most people are tired of all the publicity on this issue and wish we could get back to a time when sexual preference was kept purely private.

I also believe that the Federal government should have very limited power over the decisions State and local governments make about their schools. This has long been my position.

Mr. Speaker, I would like to call to the attention of my Colleagues and other readers of the RECORD the resolution adopted by the West Knoxville/Knox County Republican Club and the article that ran in The Weekly Standard on June 7, 2016.

A BATHROOM OF ONE'S OWN—NEWSCOM

Two weeks ago the Obama administration issued a federal edict decreeing that every public school in America allow students to use whichever bathroom they choose, under pain of lawsuit and/or loss of federal funding.

Less than a week after that, New York City's Commission on Human Rights issued its own edict, declaring that anyone under the city's rule who refused to use the preferred gender pronouns in dealing with transgender individuals—he, she, ''xe,'' or ''hir''—would be guilty of harassment and subject to penalties up to $125,000 for the first infraction and $250,000 ''for violations that are the result of willful, wanton, or malicious conduct.'' As law professor Eugene Volokh noted, the use of the term ''harassment'' is important, because it means that employers and businesses are responsible not just for their own behavior but for the behavior of their employees and customers.

And New York is, if you can imagine it, behind the times. Out in Oregon, Leo Spell, a fifth-grade teacher in the Gresham-Barlow school district, decided she was transgender. (Soell made this decision public only after receiving tenure.) Soell's transition took the form of insisting that she was neither male nor female and demanding that her colleagues refer to her as ''they.'' When other teachers continued to call Soell ''she'' and ''her'' and ''Miss Soell,'' Soell filed a harassment complaint. The school district settled with they for $60,000 and promised to initiate a sweeping set of transgender reforms. To hammer home the power dynamic, the school district claimed, in the statement accompanying the payout, that it was quite ''pleased'' with the outcome.

If you think that's depressing, it could always be worse. In Canada, the minister of justice recently introduced legislation banning discrimination based on ''gender identity'' and ''gender expression,'' which could join previous legislation criminalizing anti-trans ''hate propaganda.'' Should the bill pass, you could do up to two years, hard time, if you think the wrong thoughts or say the wrong words.

If this all seems like an inordinate amount of heavy artillery for an infinitesimally tiny issue, that's actually the point. Much as fights in academia are so bitter because the stakes are so small, transgender activists are crushingly authoritarian because the justice of their cause is so uncertain. What the trans project lacks in moral and logical clarity, it hopes to overcome with vehemence and intimidation.

The confusion is abundant. If you tell a transgender activist that gender is determined biologically, through chromosomal composition, they reply, Well, what about people with Klinefelter (XXY) syndrome? But even with Klinefelter's chromosomal anomalies, only a very small proportion of persons will fall into a category of ''intersex.'' As National Review's Celina Durgin points out, arguments about the tiny, tiny sliver of the population who are biologically considered ''intersex'' actually run counter to transgender ideology, which places ''gender identity''—a self-discovered concept—on a separate plane above mere biology. In other words, if being biologically XX is irrelevant to whether or not you are a girl, then why should it matter if you're XXY? Resorting to arguments about the intersexed is actually an admission of the primacy of biology.

Or consider ''gender fluidity,'' another pillar of the transgender project. According to this precept, some people may be one gender on Monday and another on Tuesday. Who can say which is which, or who is when? Not you. The individual is what he/she/they/xe/hir says at any given moment.

And once you've divorced gender from biology and agreed that someone who is chromosomally XY can be a woman, you have no valid reason to object if, the next day, she says she is a man again. If you sign on for transgenderism, you're signing on for gender fluidity, too.

It doesn't stop there, of course. Once you shoot past gender fluidity and the nongendered ''theys'' like Leo Soell and ''pangenders'' (who claim to be everything rolled into one), there's a whole other universe of gender identities out there. For instance, ''otherkin.''

What are ''otherkin''? Otherkin is the gender identity of people who believe that they are nonhuman. Last summer Vice.com profiled a fellow who identifies as a fox. Some identify as dogs. Some as lions. Some as dragons. Some otherkin even go through body-modifications to make their physical selves look more like their otherkin identity.

The otherkin aren't officially part of the LGBTTQQIAAP alliance yet. But just wait. They're coming. Because to deny them their place at the table—to deny that a human person can be not just an animal, but a creature that does not even exist in the real world—is to put the entire transgender project in jeopardy. Because transgender theory, which posits that the self is infinitely plastic, cannot survive a single limiting precept.

Fortunately, we are not yet fighting over the rights of otherkin unicorns. In the here-and-now, we merely have wars over public bathroom and school locker room accommodations. This may seem like a small-scale concern. The Census Bureau and the New York Times tried to estimate the number of transgendered persons in the United States last year and came up with a figure somewhere between 21,000 and 90,000. Or, to put it another way, transgenders probably make up between 0.007 percent and 0.029 percent of the American population. When you're dealing with fractions this small, it's hard to be precise.

But because virtue-signaling is the highest form of morality in modern America, the full force of the federal government is being brought to bear on transgender bathroom rights, not only through Obama's federal edict, but through the Obama Justice Department's fight against the state of North Carolina.

In March, the elected officials of North Carolina voted on and passed a piece of legislation, HB–2, which was designed to stop the forced march toward mandating that people must be free to use whatever bathroom they desire. (It is instructive to note that the initiatives pushing the transgender agenda are almost never enacted legislatively; they are often rammed through bureaucracies and commissions or accomplished by executive fiat.)

HB–2 was not a perfect piece of legislation. But the reaction to it was illuminating. The Charlotte Observer's editorial board proclaimed, ''Yes, the thought of male genitalia in girls' locker rooms—and vice versa—might be distressing to some. But the battle for equality has always been in part about overcoming discomfort . . .''

Which brings us to the final bit of confusion in the transgender project. At the heart of the bathroom issue is a simple question: Is there a valid reason for separate facilities for men and women? Is there any rational justification for having separate bathrooms, or locker rooms, or changing rooms, for men and boys on the one hand, and women and girls on the other?

The trans argument, per the Charlotte Observer, is essentially ''no.'' By their logic, if women just need to get over their discomfort at seeing naked men next to them, then there's no reasonable explanation for why women could want their own facilities.

Except that this would mean there is no reasonable explanation for why someone who is transgender should prefer one set of facilities over another. If biologically born women need to ''overcome discomfort'' about having naked men around them, why shouldn't a biological man who identifies as a woman not similarly have to overcome his discomfort at being around other naked men?

The logical paradox of the transgender bathroom war is that it insists that the type of gender and genitalia in a public facility is completely irrelevant—except to the transgendered, for whom it is of supreme importance.

At the end of the day, if you're not in favor of unisex facilities for all—one bathroom for everyone to use—then the transgender case falls apart. Because the transgender project tacitly admits that there are reasons of privacy, modesty, and prudence for segregating the sexes. It merely wishes to trump these concerns from the vast majority for the special pleading of a small, powerful, and illiberal group.

It is the very definition of the tyranny of the minority.

RESOLUTION

THE WEST KNOXVILLE/KNOX COUNTY REPUBLICAN CLUB

Whereas, Persons who assert a ''gender identity'' other than their sex are claiming a right to utilize rest room facilities, locker rooms and associated showers with persons of the opposite sex; and

Whereas, No such right has existed in the history of mankind; and

Whereas, Persons—and particularly females—are made extremely uncomfortable by the presence of persons of the opposite sex in such facilities; and

Whereas, There is no way to determine the legitimacy of a claim of ''gender identity,'' thus opening the door to false claims made to gain entrance to such facilities for immoral and illegal purposes; and

Whereas, Agencies of the Federal Government have exceeded their lawful authority by construing various Acts of Congress as conferring a right to utilize such facilities designated for persons of the opposite sex upon persons claiming a ''gender identity'' different from their biological sex, to wit:

a. On January 7, 2015, the Department of Energy Office for Civil Rights issued a letter construing 34 C.F.R. 106.33 (implementing 20 USC 1681(a)) as requiring that transgender students in schools that receive Federal funds must ''generally'' be allowed to utilize bathrooms and locker rooms assigned to the gender with which they identify. The Court of Appeals for the 4th Circuit, citing deference to administrative construction, has reinstated a suit by a transgender ''male'' to require her Virginia high school to allow her to use the boys rest room, and

b. The Department of Justice has sent a letter to the Governor of North Carolina, asserting that the provisions of North Carolina H.B. 2 violates the Civil Rights Act of 1964 because it treats Transgender persons differently than non-transgender persons by denying all persons the right to use multi-person facilities assigned to persons of the opposite sex, and

Whereas, the expanded interpretations set out above will require schools, in particular, to require that schoolchildren share toilet, locker and shower facilities with any person of the opposite sex that claims a different ''gender identity,'' and

Whereas, with particular reference to 20 USC 1681(a), this expanded interpretation of ''sex'' will have the effect of mandating that transgendered ''females'' be allowed to try out for and compete in women's sports and, because of the greater strength and speed potential of biological males, will largely destroy the very women's sports programs that the provision was designed to foster, and which it has fostered with great success; Now, therefore, be it

Resolved as follows;

1. That the foregoing expansions of these Acts of Congress to create rights never intended or contemplated at the time they were enacted is an unconstitutional exercise of legislative power by the Executive Branch, and must be addressed IMMEDIATELY!

2. That the United States Code must be amended to clarify the erroneous ''interpretation'' placed on it by the Executive Branch by enacting a statute worded substantially as follows:

As used in this Code, the word ''sex'' refers only to biological sex unless expressly stated to the contrary. No such reference in this Code either requires or prohibits any particular treatment of transgender individuals unless some particular treatment is expressly stated therein.

3. That since such legislation is certain to be vetoed by our President, the foregoing bill MUST BE PASSED AND PRESENTED TO HIM in a timely manner, so that upon returning it to Congress, ample time for votes to override that veto can be held BEFORE THE ELECTION IN NOVEMBER.

4. That this resolution be forwarded to our Representative and to both of our Senators, with the notation that failure to vigorously pursue the passage of the above statute will be construed by the Club as your agreement with these unconstitutional actions by the Executive Branch.

5. The undersigned officers of the West Knoxville/Knox County Republican Club execute this resolution in their capacities as officers only, and that the undersigned represent that this Resolution was passed without opposition by the voting members present at the June 13, 2016 meeting of the club.

Resolved by the Club this the 13th day of June, 2016

GARY LOE,
Vice President.
PAUL E. WEHMEIER,
President.

CONGRATULATING THE LCHS ATHLETIC HALL OF FAME CLASS OF 2016

HON. BARBARA COMSTOCK

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 2016

Mrs. COMSTOCK. Mr. Speaker, I rise to recognize the following coaches, contributors, and athletes for being selected to the Loudoun County High School Athletic Hall of Fame Class of 2016. Pat McManus, Alan Smith, Dr. Robert K. Belote, James M. ''Jimmy'' Kidwell, Reginal ''Reggie'' Evans, Susan Moxley, David DiMillio, Kristen DiMillio, Kevin Grigsby, Joanna Penn, Shari Mayr, Derrick Ellison, and Marie Bolton were all named to the LCHS Hall of Fame. These individuals have earned this honor through their passion and commitment to athletics.

These outstanding men and women's hard work, perseverance, and athletic excellence are exemplified in their receipt of this honor. Coming from a family of educators, I understand not only how important a strong education is to the future of our country, but also the need for athletic competition to form a well-rounded member of society. We need to encourage more people to imitate these individuals who have worked so hard to accomplishing this incredible goal.

Mr. Speaker, it is my honor to highlight the importance of this achievement and what it represents for these men and women. I ask that my colleagues join me in congratulating them on being inducted into the Loudoun County High School Athletic Hall of Fame Class of 2016. I wish them all the best in their future endeavors.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE FOR H.R. 4487

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 2016

Mr. SHUSTER. Mr. Speaker, in accordance with House Report 114–589, Part 1, I submit the following Congressional Budget Cost Estimate for H.R. 4487.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, July 5, 2016.

Hon. BILL SHUSTER,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4487, the Public Buildings Reform and Savings Act of 2016.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 4487—Public Buildings Reform and Savings Act of 2016

H.R. 4487 would amend federal law to provide new authorities to the General Services Administration (GSA) and the Department of Homeland Security's Federal Protective Service (FPS) to manage federal real estate assets and security at those facilities. The act also would require GSA to prepare a number of reports for the Congress and the Government Accountability Office (GAO) to complete an audit of GSA's national broker contract. Finally, the legislation would require that lactation rooms be available in all federal buildings that are open to the public.

Based on information from GSA and the FPS, CBO estimates that implementing H.R. 4487 would cost $3 million over the 2017–2021 period, mostly for GSA to prepare reports on a variety of subjects, including a comparison of the cost of owning or leasing space, an explanation of why the costs of construction projects exceed their initial estimates, a review of current rental rates, and an analysis of the use of refrigerants in equipment installed in federal buildings. CBO also estimates that it would cost GAO less than $500,000 annually to prepare the required audit. Based on information from GSA, CBO estimates that the act's requirements to establish lactation rooms in federal buildings would have an insignificant cost because it would apply only to federal buildings that are open to the public and that have lactation rooms designated for use by federal employees. Finally, CBO estimates that providing the FPS with additional law enforcement authorities would not have a significant cost.

Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 4487 would not increase direct spending or on-budget deficits in any of the four consecutive 10–year periods beginning in 2027.

CBO also reviewed provisions of the legislation that would require GSA to build a new headquarters for the Department of Energy (DOE), to be financed by exchanging or selling DOE's current headquarters in the Forrestal Building Complex in Washington, D.C. Based on information from GSA and property developers, CBO expects that constructing a new DOE headquarters could not be accomplished solely through a sale or exchange of the current facility, and would require the expenditure of additional appropriated funds, which are not authorized by this act. Under H.R. 4487, if a new headquarters facility could not be built, GSA would be directed to sell any underutilized or vacant property in the Forrestal Complex. Based on information from GSA, CBO does not expect that enacting the bill would result in more sales than would otherwise occur under current law.

H.R. 4487 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.