Anniversaries are a time to reflect upon a steadfast tradition of service. They are also a time to look toward new horizons. Kiwanis have made it their responsibility to serve those in need by keeping pace with the ever increasing challenges facing mankind.

Mr. Speaker, it is obvious that the community and the members of the club have greatly benefited from the effort that was started in 1921. I ask my colleagues to join me today in recognizing the achievements of the Ottawa Kiwanians and encourage them to continue to uphold what has become the standard for service in Ohio.

TRIBUTE TO DR. EARL CRANE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 27, 1996

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of Dr. Earl R. Crane, who has made and continues to make a tremendous difference in the lives of children in California through his efforts with the Children's Dental Health Center in San Bernardino. Dr. Crane will be recognized for his 40 years of work with the naming of the Dr. Earl R. Crane Children's Dental Health Center on October 3, 1996.

Dr. Crane came to San Bernardino in 1942 as an army dentist at San Bernardino Army Air Base where he settled, and later met and married his wife, Marilyn. Recognizing the need for low-cost dental services for children, Dr. Crane enlisted the support of the Assistance League of San Bernardino, the dental community, and local schools and established the Children's Dental Health Center.

The dental center provides services to children of the working poor in San Bernardino. The goal of the center is to help those who are not on public assistance and who have no dental insurance. Hundreds of students, referred by area schools, are served each year with thousands of varying dental procedures at little or no cost. In addition, all students in the local school district are screened for dental health by the center in the first grade.

Since 1949, the dental center has been located in the Assistance League building. Over the years, Dr. Crane has served on the dental center board and as a liaison between the dental community and the center. The Assistance League of San Bernardino, which has sponsored this philanthropic effort for the children of our community since its inception, has decided to honor the man who founded the center and remains active in its success.

Mr. Speaker, I ask that you join me and our colleagues in recognizing the inspiring efforts of Dr. Earl Crane in making a tremendous difference in the lives of thousands of children during the last 40 years. It is only appropriate that the House recognize this outstanding man at the dedication of the Dr. Earl R. Crane Children's Dental Health Center.

TRIBUTE TO CLEO FIELDS

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 1996

Ms. MILLENDER-McDONALD. Mr. Speaker, I'd like to thank my colleague, the gentleman from Illinois, for yielding time to me to honor one of this body's most distinguished gentleman, the honorable CLEO FIELDS from the 4th district of Louisiana.

While it pleases me to pay tribute to my dear friend, it saddens me to know that the reason I am here is because of an arbitrary rule change. My son Keith, who is about CLEO's age, tells me, ''Mom, you have to be a student of the game'', the game being sports.

Over the years I've read a sports page or two. And in my readings I have found that whenever we African-Americans began to excel at a particular sport, there is a ''rule change''. When Lou Alcindor—also known as Kareem Abdul-Jabbar—began playing college basketball, the NCAA outlawed the slam dunk—a rule change. When Wilt Chamberlain scored more than 100 points in one night, the NBA had a rule change. When Willie Brown became the most powerful speaker ever to preside over the California State Assembly, there was a rule change. And when the Nation's youngest State senator was elected to serve in this body, the most deliberative body in the world, there was a rule change.

These rule changes indicate one thing to me: The struggle has not been ended. There are battles to be fought and wars yet to be won.

It has truly been a pleasure to serve with CLEO on the Small Business Committee. I only wish that we could have served together longer. I have never seen a young man who was so wise beyond his years. He participated in some of the great debates of our committee. He brought clarity to the issues and always answered the call to defend the rights of minority and disadvantaged businesses.

At a time when more of our young black males are in jail than in our universities, we can look to the CLEO FIELDS' of this Nation and know that there is hope. When his son, Cleo Brandon Fields, looks for a role model, we know that his father, CLEO FIELDS, will be there.

As a mother, I am proud to say that I know this young giant, CLEO FIELDS. As a member of the Congressional Black Caucus, I will remember his service and his sacrifice. As an African-American, I will remember that the struggle is not over. And while the rules may change—and change often—we are still in the game.

Godspeed to you, CLEO FIELDS. And may His blessings follow you, Deborah, and Brandon in all of your future endeavors.

PROBLEMS WITH EPA'S IMPLEMENTATION OF CLEAN AIR ACT SECTION 183(e)

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 27, 1996

Mr. CONDIT. Mr. Speaker, as part of the 1990 Clean Air Act Amendments, Congress mandated that EPA examine the Volatile Organic Compounds [VOC's] emissions from various consumer and commercial products for the sole purpose of determining which of these VOC emissions contribute to ozone levels which violate the national ambient air quality standard for ozone. After this determination was made, EPA was to list those categories of consumer or commercial products that the Administrator determined, based on the study, accounted for at least 80 percent of the VOC emissions, on a reactivity-adjusted basis, from consumer or commercial products in areas that violate the ozone standard. At that time, the Administrator was to divided the list into 4 groups establishing priorities for regulation based on the criteria established in this law. Every 2 years after promulgating such list, the Administrator is to regulate one group of categories until all 4 groups are regulated.

EPA has recently proposed a rule under Clean Air Act Section 183(e), the law I just described, that would limit the VOC content of paints and coatings. In doing so, EPA has violated not only the letter and intent of this law, but also the intent of the Small Business Regulatory Enforcement Fairness Act [SBREFA], an act that we overwhelmingly passed to protect small businesses from draconian rules such as the one EPA is now proposing. I have been made aware that the overwhelmingly negative impact of this rule will fall predominately on the shoulders of small paint manufacturers, those who are the least able to bear this burden, the very result we passed SBREFA to avoid.

Clean Air Act Section 183(e) directs EPA to follow certain steps in regulating the emissions of VOC's from consumer and commercial products. The act directs EPA to report to Congress after studying the reactive adjusted basis of emissions of various VOC chemicals from consumer and commercial products. This Report to Congress was supposed to determine the potential extent to which VOC emissions from paints and coatings, and other consumer and commercial products contribute to the exceedance of the ozone standard.

Clean Air Act Section 183(e) sets forth the specific criteria that EPA ''shall'' use in conducting this Report to Congress. These criteria are, in effect, a mini risk assessment/cost benefit mandate. Section 183(e) sets forth the specific criteria that EPA shall use in conducting this study: The uses, benefits and commercial demand of consumer and commercial products; the health or safety functions (if any) served by such consumer and commercial products; those consumer and commercial products which emit highly reactive VOC's into the ambient air; those consumer and commercial products which are subject to the most cost-effective controls; and the availability of alternatives (if any) to such consumer and commercial products which are of comparable costs, considering health, safety, and environmental impacts. It is important to note that the use of ''shall'' by Congress means that EPA has no discretion in altering, ignoring, or adding to this list.

After the completion of this study, EPA is to prioritize the regulation of consumer and commercial products, based on this study. ''Upon submission of the final report * * * the Administrator shall list those categories of consumer or commercial products that the Administrator determines, based on the study, that account for at least 80 percent of the VOC emissions,

on a reactivity-adjusted basis, from consumer or commercial products in areas that violate the NAAQS for ozone.''

Clearly, this law is intended to make EPA examine the underlying science and economic impact of reducing VOC's in consumer and commercial products, and then, if reductions would lower the potential to violate the NAAQS for ozone, EPA could exercise its judgment in comparing these VOC attributes in promulgating the appropriate regulations.

On March 15, 1995, EPA filed with Congress its Clean Air Act Section 183(e) Report. This report to Congress is the predicate that will attempt to justify for EPA the hundreds of consumer and commercial products subject to the regulations it will issue during the next eight years. In this report, EPA states that it did not perform the reactivity analysis, although admitting that such an analysis is required by law.

Congress wanted to have the benefit of EPA's scientific and economic analysis for each consumer and commercial products, so we would know the extent of these VOC's contributions and to ensure that EPA issued regulations that met our objectives as stated in the law. In its 1995 report, EPA has failed to provide this information to Congress. In addition, EPA has yet to provide us with this required information. What are they waiting for? Why do they persist in putting out a rule that they say meets the requirements of Section 183(e) of the Clean Air Act while keeping from Congress the information that we demanded they produce that scientifically and economically justify these far reaching rules?

Instead of focusing on reactive VOC's in products, this report focuses on industries. Instead of focusing on reactivity, this report focuses on volume. Instead of focusing on VOC emissions, it focuses on VOC content. Instead of a detailed study of the uses, benefits, and commercial demand of paint and coatings, the health or safety functions (if any) served by such coatings, the most cost-effective controls on and availability of alternatives (if any) to such coatings which are of comparable costs considering health, safety, and environmental impacts, EPA wrote a nonpeer-reviewed document that purposefully ignores information required by law and, with an apparent prejudice, comes to the presumptive conclusion that VOC's from these industries contribute to ozone without any factual predicate, instead of determining their potential to contribute to ozone levels which violate EPA's ozone standard—the standard mandated by Congress. The fact that EPA has failed to perform its duties is a critical error in our nation's attempt to solve the ozone puzzle.

On June 25, 1996, EPA published an incomplete notice of proposed rulemaking purportedly announcing the draft VOC in paint and coatings rule. This draft, in addition to its other defects, changes the definition of small business because without it, EPA would not have as much control over this industry as it wanted. So, instead of crafting a rule that adheres to established law and regulation, EPA changes the definition to have as much command and control over an industry that it wants, not what Congress mandated. EPA has disregarded our will as clearly stated in the Clean Air Act as well as SBREFA—a law that we overwhelmingly passed and that EPA avoided by publishing this proposed rule three days prior to it going into effect.

An examination of the statements made by Members of this Body at the time this law was being considered highlights EPA's lack of understanding of Clean Air Act section 183(e). During the House of Representatives consideration of this law, Congressman Luken from Ohio made some specific statements regarding reactivity:

> It is expected that the study will provide a much needed data base and a better understanding of the relative net environmental impacts of these products. This will provide a sound basis for regulation * * * I am particularly pleased that the language now emphasizes the importance of photochemical reactivity as a key criterion to be used by the Administrator in determining the categories of emissions to be listed. It is commendable that we are recognizing the fundamentals of atmospheric chemistry in this area by requiring that emissions be considered on a reactivity adjusted basis before being considered for regulation. The term reactivity adjusted basis requires a focus of regulatory controls on the more reactive VOCs by relating the amount of urban ozone formed to the weight of the VOC emitted to the ambient air, thereby achieving the most cost effective control measures. I am pleased that we have provided the Administrator very specific factors for determining the criteria for selecting product categories which are to be subject to control.

''The Report of the House Committee on Energy and Commerce on H.R. 3030,'' H.R. Rep. No. 490, 101st Cong., 2d Sess., pt 1(1990) states that ''the Administrator is required to propose regulations reducing [VOC] emissions from consumer and commercial products * * * that may reasonably be anticipated to contribute to ozone levels that violate the NAAQS.'' In other words, in ozone nonattainment areas.

It is unquestionably clear from this legislative history that: (1) Any rule was to focus solely on nonattainment areas; (2) the study that EPA was to produce was to analyze whether any rule was necessary, as well as analyze the role of consumer and commercial product VOC's at levels that cause the exceedance of the ozone standard; (3) the reactivity test intended by Congress was based upon what happens scientifically at the NAAQS for ozone; (4) that the reactivity study occur PRIOR to any regulation being issued; and (5) that reactivity was key to any rulemaking.

Given the above, we are confused by EPA's insistence on regulating VOC's from consumer and commercial products before the required study is performed. Their insistence to do this in the face of no apparent evidence finds no support in the law nor in the legislative history. Furthermore, EPA has purposefully blinded themselves from the fact that small paint companies in attainment areas would be the hardest hit by this rule—again, a result that finds no support in the law nor in the legislative history.

EPA's position is further muddied by regulatory preamble language calling for further analysis, after this rule goes into effect, and after many small paint companies are fatally harmed, so they could adopt future regulations that are even more stringent, is another action that finds no support in the law nor in the legislative history.

> Following proposal of this rule the EPA plans to participate in a joint study with the architectural coatings industry. This study will focus on the feasibility of adopting more stringent VOC requirements in the future. Issues to be investigated include the cost and economic impact of different levels of VOC requirements, reactivity considerations associated with changing coating formulations, and evaluation of physical characteristics and performance characteristics of coasting with VOC contents lower than the proposed levels.

We are dismayed by EPA's blatant and now admitted disregard for the law. If a study considering reactivity can be conducted after the rule is promulgated, why can it not be done BEFORE the rule is issues, as commanded by law?

It is our understanding that recent scientific evidence, specifically the findings of this Nation's leading atmospheric scientists, many of whom participated in a 1991 National Academy of Science study entitled ''Rethinking the Ozone Problem in Urban and Regional Air Pollution,'' have found that the VOC's that come from evaporative man-made sources can be examined and compared based on their reactivity and that an evaporative VOC emission elimination strategy will not result in those ozone laden regions of the country coming into attainment with EPA's ozone standard. Many leading scientists' have found that individual VOC reactivities can be very accurately predicted with sophisticated modeling techniques heretofore not utilized by EPA. Most interestingly, these researchers concluded that a regulatory scheme based on considerations of reactivity is more effective at reducing VOC emissions and is cheaper to implement than mass-based controls. It would appear that ignorance of this information would result in the squandering of valuable resources. Why, then, is EPA insisting that an expensive and scientifically dubious regulatory scheme be undertaken?

The Clean Air Act's section 183(e) has instructed EPA to compile and present to Congress a study detailing VOC emissions from consumer and commercial products and to use this study as the foundation for embarking on a course of VOC regulation. EPA is further directed by the law to employ reactivity, the characteristic property of individual VOC's relating to their propensity to contribute to ozone nonattainment, when choosing those products or product categories worthy of regulation. In its notice of regulation published March 23, 1995 in the Federal Register, however, EPA confirms our suspicion that it is shirking its legal responsibility to incorporate reactivity into its regulatory scheme for VOC's. In that notice announcing EPA's intent to regulate on the basis of mass VOC emissions, EPA admits considering reactivity to only a limited extent, expressing concern with reactivity's empirical limitations and uncertainties. EPA cannot hide behind a veil of uncertainty on the reactivity issue. Specifically:

Clean Air Act section 183(e) states that EPA must do a study of VOC's emitted from consumer and commercial products to ''determine their potential to contribute to ozone levels which violate the national ambient air quality standards for ozone.'' The standard stated in the law for the reactivity test.

EPA's report states that, ''Because of the uncertainties, inconsistencies, and lack of reactivity data on individual compounds, the EPA concluded that a rigorous determination of the potential of consumer and commercial products to contribute to ozone nonattainment is not possible at this time.''

The Report to Congress does not provide the scientific information Congress asked for in order to determine which VOC's from paints and coatings contribute to the exceedance of the ozone standard as established by EPA.

EPA did not rank consumer and commercial products on a reactivity-adjusted basis. EPA has not even created a peer-reviewed reactivity adjusted scale.

EPA added three new criterion, volatility of VOC's, volume of VOC emissions, and regulatory efficiency and program considerations. This later criterion will allow EPA to ''exercise discretion in adjusting the product category rankings * * * to achieve an equitable and practical regulatory program.'' EPA views this amendment to the Clean Air Act as at least as equal to those Congress set in Clean Air Act § 183(e).

We are also concerned with EPA's apparent indifference to the disparate impact this rule will have on industry, particularly small business. EPA's calculation of the proposed rule's economic cost does not consider the human terms—lost jobs or lost small, family-owned businesses, an issue that directly mandated to be considered under Clean Air Act Section 309. We are deeply concerned that the negative impact of compliance costs will fall hardest upon lower-income wage earners employed in the coating industry; many minority earners and low-income whites would lose their jobs in the fallout, while not reaching the goal of ozone attainment. EPA must be aware of this reality if it is to regulate an entire industry. EPA's granting of a longer compliance timetable is nothing more than a longer stay on death row for many of these companies—the result of business closure is the same.

The compliance costs of reformulating or reoutfitting operations is staggering. The South Coast Air Quality Management District in California has been regulating consumer and commercial product VOC levels for several years; it is their expert assessment that the economic impact of controls for a desired reduction of VOC emissions of the approximately 18 percent EPA's regulation of VOC's in paints, is over $1.5 billion based upon their experienced determination that paint and coating VOC control costs are $16,400 per ton.

EPA, in various letters to fellow Members of Congress, estimates the cost at $40 million. How can EPA be two orders of magnitude lower than experienced regulators? More importantly, how does EPA think it can pass a rule by ignoring basic scientific principles, by possessing insufficient legal authority, and having the rule cost so much money? Why are you insisting on reducing VOC levels in paint beyond that considered by the statute (assuming such reductions would reduce the potential to contribute to ozone levels which violate the ozone standard)?

We strongly urge EPA to take a long look at the core legal and economic issues, including the effect of this regulation on coating used as an intermediary in various manufacturing processes, as well as the peripheral details surrounding its desire to regulate consumer and commercial products. In no way can EPA exact such a great price from the American public when its science is wrong and its legal authority so tenuous.

What is also clear is that EPA has mishandled our specific charge to them regarding Clean Air Act section 183(e). We urge you to stop any and all regulatory action on this issue until a proper, peer reviewed analysis is conducted pursuant to Clean Air Act section 183(e). Vigilance and oversight is needed to ensure that the paint industry, especially small paint companies, do not pay the harsh price of demise for EPA's lack of understanding.

IMMIGRATION COURT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 27, 1996

Mr. McCOLLUM. Mr. Speaker, today I am introducing legislation to establish a new United States Immigration Court. This bill will remove the immigration adjudication functions from the Justice Department and invest them in a new article I court, composed of a trial division and an appellate division whose decisions will be appealable to the Court of Appeals for the Federal Circuit.

The system for adjudicating immigration matters has matured tremendously over the last 15 years. Special inquiry judges have become true immigration judges in just about every aspect but name, and the immigration reform conference report that the House passed on Wednesday rectifies that situation. The Board of Immigration Appeals has been greatly expanded, and the whole Executive Office for Immigration Review has been separated from the Immigration and Naturalization Service.

Yet much of this system, including the Board of Immigration Appeals, does not exist in statute. And while separated from the INS, aliens still take their cases before judges who are employed by the same department as the trial attorneys who are prosecuting them.

I believe it is time to take the next logical step and establish a full-blown adjudicatory system in statute, and I believe that such a system should be independent of the Justice Department. This is not a new concept. I first introduced legislation to take this step in 1982, and I continue to believe that an article I court would allow for more efficient and streamlined consideration of immigration claims with enhanced confidence by aliens and practitioners in the fairness and independence of the process.

The bill I am introducing today provides a solid framework on which to build debate on this important and far-reaching reform. I look forward to working with all interested parties in fine-tuning and further developing this proposal where necessary and enacting this much needed reform in the next Congress.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; TABLE OF CONTENTS

The short title of the bill is the ''United States Immigration Court Act of 1996.'' Subsection (b) provides that all amendments made by this bill are to the Immigration and Nationality Act (INA), unless otherwise specified. Subsection (c) is a table of contents.

SEC. 2. ESTABLISHMENT OF UNITED STATES IMMIGRATION COURT

Subsection (a) establishes the United States Immigration Court under a new chapter 2 title I of the Immigration and Nationality Act. The following is a section-by-section analysis of that new chapter:

Section 111 establishes the United States Immigration Court as a court of record under article I of the Constitution of the United States. The Court consists of two divisions: the trial division and the appellate division.

Section 112. Appellate Division. Subsection (a) provides for the appointment by the President, by and with the advice and consent of the Senate, of a chief immigration appeals judge and five other immigration appeals judges.

Subsection (b) sets the term of office for appeals judges at 15 years, with the first group of judges to be appointed for staggered terms.

Subsection (c) sets the compensation for the chief immigration appeals judge at 94 percent of the next to the highest rate of basic pay for the Senior Executive Service, and the compensation for the other appeals judges at 93 percent.

Subsection (d) makes the chief immigration appeals judge responsible on behalf of the appellate division for the administrative operations of the Immigration Court.

Subsection (e) provides that three appeals judges constitute a quorum.

Subsection (f) provides that the appellate division shall act in panels of three or in banc, and a final decision of such panel shall be a final decision of the appellate division.

Subsection (g) outlines the process for the removal of appeals judges, which shall only be for incompetency, misconduct, neglect of duty, engaging in the practice of law, or physical or mental disability and shall be by the Court of Appeals for the Federal Circuit.

Subsection (h) provides for the payment of expenses for travel and subsistence for appeals judges while traveling on duty and away from their designated stations.

Section 113. Trial Division. Subsection (a) provides for a chief immigration trial judge, to be appointed by the chief immigration appeals judge. Every current immigration judge who is qualified under this Act to be an immigration trial judge shall be appointed by the chief immigration appeals judge.

Subsection (b) sets the term of office for trial judges at 15 years.

Subsection (c) establishes the rates of pay for immigration trial judges.

Subsection (d) makes the chief immigration trial judge responsible for administrative activities affecting the trial division and gives him/her the authority to designate any trial judge to hear any case over which the trial division has jurisdiction.

Subsection (e) provides that trial judges may be removed in the same manner as appeals judges, except removal shall be by the appellate division rather than the Court of Appeals for the Federal Circuit.

Subsection (f) outlines the authority of trial judges in conducting hearings.

Subsection (g) provides that witnesses shall be paid the same fee and mileage allowance as witnesses in any other court in the U.S.

Subsection (h) provides for the payment of expenses for travel and subsistence for trial judges while traveling on duty and away from their designated stations.

Section 114 outlines the jurisdiction of the appellate and trial divisions.

Subsection (a) outlines the jurisdiction of the appellate division as follows.

Paragraph (1) provides that the appellate division shall hear and determine appeals from final decisions of immigration trial judges, decisions involving the imposition of administrative fines and penalties under title II of the INA, and decisions on petitions filed under section 204 for immigrant status and under 205 revoking approval of such petitions.